

**COMMUNITY AND DEMOCRACY IN SOUTH AFRICA: LIBERAL  
VERSUS COMMUNITARIAN PERSPECTIVES**

**YUSEF WAGHID**

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**Promoter: Professor AA van Niekerk**

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## **DECLARATION**

I, the undersigned, hereby declare that the work contained in this dissertation is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

**YUSEF WAGHID**

**DATE:** 17 October 2002



## **ABSTRACT**

The tradition of liberalism in South Africa has played a significant role in shaping the country's multi-party democracy. Yet, there are several gaps within the tradition of liberalism which can be associated with an aversion towards majority rule, equalising opportunities through affirmative action measures, and a focus on securing political rights as opposed to substantive rights for all citizens. It is my contention that weaknesses within the liberal tradition could be minimised if a more credible conception of liberalism is constructed within the parameters of a deliberative framework of democracy.

In this dissertation I make an argument for a defensible form of liberalism which can be achieved through a rational, reflexive discourse-oriented procedure of deliberative democracy. Deliberative democracy in turn can engender a form of citizenship which recognises the need for citizens to care, reason and engage justly in political conversation with others.

**KEYWORDS:** Liberalism, communitarianism, deliberative democracy and South Africa.

## **ABSTRAK**

Die tradisie van liberalisme in Suid-Afrika het 'n noemenswaardige bydrae gelewer tot die totstandkoming van die land se veelparty demokratiese bestel. Afgesien hiervan, verskyn daar vele gapings binne die liberale tradisie wat hoogstens vereenselwig kan word met 'n teenkanting teen meerderheidsregering, skepping van gelyke geleenthede deur regstellende aksies en 'n fokus eerder om politieke regte liever as ook substantiewe regte vir alle burgers te bekom. Ek redeneer dat tekortkominge binne die liberale tradisie geminimaliseer kan word indien 'n meer vededigbare begrip van liberalisme gekonstrueer word binne die perke van 'n beredeneerde demokratiese raamwerk.

Ek voer aan dat 'n verdedigbare vorm van liberalisme bewerkstellig kan word deur 'n rasionele, refleksiewe diskoersgeoriënteerde prosedure van beredeneerde demokrasie. Op die beurt kan beredeneerde demokrasie 'n vorm van burgerskap teweegbring wat die belangrikheid van omgee en redenering erken, en ook terselfdertyd burgers betrek op 'n geregverdigde wyse in gesprekvoeing met ander persone.

**SLEUTELWOORDE:** Liberalisme, gemeenskapsgerigte liberalisme, beredeneerde demokrasie en Suid-Afrika.



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## CHAPTER 1

### INTRODUCTION AND DESIGN

*... For philosophy reflects and articulates the political culture of its time, and politics represents and enacts the arguments of philosophy (Walzer, 1986: 136).*

#### 1.1 PROBLEM STATEMENT AND FOCUS

The South African political scene has certainly undergone major conceptual and structural changes ever since the demise of apartheid politics. Since April 1994 political transformation in South Africa from apartheid rule to a liberal democracy witnessed a complete overhaul of the past racially based political order. A remarkable series of events followed the establishment of the country's liberal democratic system, none so compelling as the proceedings of the Truth and Reconciliation Commission (TRC).<sup>1</sup> South Africa, since the findings of the TRC, is a country desperately in need of nation building and reconciliation after decades of racism, discrimination against the majority of its citizens, and at times, inhumanity towards the disenfranchised majority.

As could be expected, the political road towards freedom and the establishment of a sense of community in South Africa after decades of apartheid, would not be plain sailing and without any serious political

impediments. The state, in particular, faces serious challenges in its quest to consolidate South Africa's newly found democracy. Many liberals who believe in the values of human dignity, the achievement of equality, the advancement of human rights and freedoms, non-racialism, non-sexism, supremacy of the rule of law, universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government with the aim to ensure accountability, responsiveness and openness, would certainly consider the Constitution of the Republic of South Africa of 1996 as an "ironic victory" (Welsh, 1998). This is so for the reason that liberalism has never been a major political power in the history of the country, in the sense of having been the dominant political voice of the ruling party. Yet, the legacy of the liberal tradition throughout South Africa's turbulent political history has in many ways influenced the politics of oppositional groups such as the Liberal Party in the 1950s, which later became the Progressive Federal Party, and is today allegedly represented by the Democratic Party (currently part of the Democratic Alliance). Liberalism has for quite long been associated with opposition to apartheid politics, in particular racial discrimination, unjust laws and abusive administration within and beyond the parliamentary structures of the South African political sphere. Undoubtedly liberalism has been a vanguard for many of the oppressed groups among the majority Blacks, Coloureds and Indians in South Africa for many decades (Butler, Elphick & Welsh, 1987).

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<sup>1</sup> The Truth and Reconciliation Commission (TRC) is an independent commission initiated by government to conduct an investigation into the crimes of the apartheid years without interference from political organisations and parties.



Yet, the liberal tradition in South Africa has not been without contradictions and anomalies, in particular where it concerns the freedom, equality and rights of the majority politically and socio-economically disadvantaged groups. In other words, liberalism as it played itself out on the South African political scene also had its shortcomings and ambiguities, despite having been a champion against the politics of racial discrimination and socio-economic injustice. For instance, for most liberals the Constitution guarantees the rights of all South Africans to housing, health care, education, and so on. Yet, not all South African citizens are in a fact in a position to exercise such rights due to perhaps poverty and other constraining conditions such as not being able to travel or afford to pay for public transport to the nearest clinic or school. In other words, being afforded rights is not the same as being able to exercise such rights. In this way, the liberal argument for the procurement of rights without also taking into account conditions which have to prevail in order to exercise such rights, seems inadequate.<sup>2</sup> In short, there are several gaps or inadequacies (weaknesses) within the liberal tradition in South Africa. Therefore, with reference to South Africa's liberal thinkers' views on community and democracy, I shall attempt to identify some of the gaps within the liberal tradition and then try to construct a more credible notion of the concept which can hopefully lead to more freedom, rights and better equality for all South Africans.

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<sup>2</sup> Of course my potential critic might claim that the gaps I have identified in the South African liberal tradition can be attributed to an insufficient realisation of the requirements of liberal theory in political discourse. But then, such a claim is grounded in an understanding that a particular theory has some universal grounding unrelated to the context in which it becomes manifest. Instead, my contention is that theories are inextricably linked to the practices in which they are realised. Theories are not unsituated. Moreover, if the argument were to hold that South African liberalism failed to realise some of the major tenets of liberal theory in political discourse, then the presence of gaps seems to be more justified in the sense that



The question arises: What are some of the gaps which can be associated with the liberal tradition in South Africa? In my reading of the liberal tradition in South Africa I have identified three distinct weaknesses: the curbing of majoritarianism in order to procure minority freedoms; equalising opportunities through affirmative action and providing procedural rights without also substantive rights to the disadvantaged (Butler, Elphick & Welsh, 1987). Before I briefly expound on these gaps, I first need to frame my identification of these gaps in relation to the assumption of South African liberalism that politics should be treated independently from the economy. The ideology of the free market which emerged as a response to the apartheid ideology in the early 1980s, called for the progressive removal of the state's role in the economy and replacing it with the sovereignty of the neo-liberal free-market ideology. This idea of separating politics from the economy was based on the liberal view that Blacks would shortly with their then growing politicization demand massive state intervention such as that perpetrated by Afrikaner Whites (Yudelman, 1987: 255). Consequently, this liberal influence in South African politics resulted in entrenching the exclusion of the majority of the disadvantaged masses and socio-economic inequality. To my mind the aversion many liberals have for straightforward majoritarianism, the favouring of affirmative action as an equalisation mechanism, and the presumed trade-off between procedural and substantive rights are inextricably related to the separation liberals make between politics (state) and economics (capital) – an understanding which aims to preserve White privilege and thus entrenching

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liberalism in South Africa departs from accepted norms of liberal theory, hence, the presence



socio-economic inequality. My contention is that if these gaps can be overcome, the possibility exists for deliberative democracy to reduce the divide liberals make between state and capital.

Firstly, as I shall show in chapter 3, liberalism in its South African guise seems to view political decision making by majority rule as a threat to minority freedoms, in the sense that the tyranny of the majority might undermine and exclude the political voices of minority groups from among Whites, Coloureds and Indians. In my view, majority rule does not have to be considered as threatening to minority freedoms if it is used only as a temporary (last-ditch) procedure to avoid any kind of political deadlock among contending political groups whether minorities or majorities which might occur. I would certainly question any form of unbridled majority rule which sets limits on what the minority might do which seems to be the case with South African liberal thought as I shall show in chapter 3. Consequently, it seems that liberalism has a justifiable case to be concerned about majority rule. But then, majority rule does not have to be seen strictly in terms of absolute or strict majoritarianism whereby decisions of political groups with a superior numerical advantage also seem to gain preference over potential marginalised minorities. It is this position of absolute majoritarianism that I wish to explore and challenge in this dissertation, particularly addressing the liberal concern that majority rule could undermine minority freedoms.



Secondly, as I shall show in chapter 3, liberalism seems to relate equality of opportunity to affirmative action measures for the disadvantaged majority. In the first place, equalising opportunities are necessary to ensure that all citizens, particularly the previously disadvantaged majority have a right to basic civil liberties such as health care, education, housing and employment. But then, using only racially based affirmative action efforts to redress the political and socio-economic disadvantages of the majority of South Africa's population could reinforce negative stereotypes, racial tension, and a stigmatisation which thwarts the efforts of members of the preferred groups to pursue their goals on merit and hard work rather than preferential treatment (Japhta, 1998). My contention is that affirmative action (as liberals argue) is necessary but should not be considered as the most important measure to redress socio-economic imbalances created by the apartheid past. It is this weakness within the South African liberal tradition I wish to analyse and explore in this dissertation.

Thirdly, as I shall show in chapter 3, liberals were intent to secure procedural rights for all South Africans, particularly the disenfranchised masses during the height of apartheid rule. Thus, it was a major concern for liberals that all Blacks, for instance, had to have a right to education. However, securing a procedural right for Blacks not to be denied formal access to education did not mean that such a right was in fact substantive. Although Blacks had a political right to education which could be defended legally in a court of law, such a right was not substantive enough since education for different race groups was in fact unequal. In this way, the liberal position does seem impoverished,

that is, having secured procedural rights for people did not mean that they actually enjoyed or exercised substantive rights. It is this gap between procedural rights and substantive rights within the South African liberal tradition I wish to explore in this dissertation.

In essence, the main argument of this dissertation is threefold: (1) majority rule does not have to be viewed as threatening as liberals suggest; (2) equality of opportunity should not just be confined to affirmative action measures but needs to be extended to the notion of “allowable differences”; and (3) procedural rights should not be pursued independent from substantive rights in order to secure political freedom and socio-economic justice for all South African citizens, particularly the least advantaged.

These arguments are also located within the following understandings related to the unfolding of the liberal tradition in South Africa: (1) the dominant political party is often accused of using neo-liberal principles in effecting political discourse; (2) the Constitution and Bill of Rights are dominated by liberal values; (3) the political views of the current oppositional party are highly liberal; and (4) the emphasis the ruling African National Party places on procuring individual and socio-economic rights for the majority of the disadvantaged people.



## 1.2 SCOPE OF STUDY

The final Constitution of 1996 and its Bill of Rights provides a political framework for securing the rights of individuals in relation to the rule of law, electoral participation, freedom of expression and association, proportional representation, self-determination and citizenship – all those characteristics associated with the intellectual roots of liberalism. Coupled with such characteristic features of liberalism, the Constitution also advocates socio-economic justice, political emancipation, nation building, participation, thus invoking a sense of community (Sections 3, 7 & 31). It is certainly beyond the scope of this dissertation to interpret the Constitution as well as providing a political analysis and synthesis of constitutional matters, for the reason that such analyses require rigorous interpretations of legal, technical and political judgments of those involved with constitutional discourse. My concern is to analyse and explore the self-understandings of South African philosophical liberalism, in particular how it frames notions of community and democracy vis-à-vis South African political discourse.

As I mentioned before, this dissertation aims to investigate (analytically I might add) some of the weaknesses within South African liberalism by focusing on essential moments within the history of the tradition. However, any analytical exploration of our liberal tradition cannot ignore the intellectual roots of philosophical liberalism. My own reading of the intellectual heritage of liberalism with reference to the works of J. S. Mill (1968, 1982), Rawls (1971, 1993) Sandel (1982, 1998), Raz (1986, 1989), Walzer (1983, 1986, 1990),



Taylor (1985, 1989, 1991) and Kymlicka (2002) is that liberals seemed to have reconciled notions of individuality with that of community. On the one hand, it seems as if liberal thinkers rejected the atomistic picture of individuals, that is, individuals as self-absorbed persons only concerned about their own self-interests and preferences. On the other hand, liberal thinkers seem to support the view that social life is a co-operative and mutually enriching venture. Mill (1968) certainly initiated the first move by reconstructing the liberal individual beyond the being concerned with self-interest to one that is potentially self-transforming. But whether he fully located the individual within the realm of social relations is an issue worth exploring. Rawls (1993) never held the view that individuals are "socially unsituated". He values community especially where it serves as "a fair scheme of mutual cooperation between free and equal (individual) citizens" (Rawls, 1993). The point I am making, is that it does seem from my tentative gleanings of the literature that philosophical liberalism reconciled individuality with a sense of community, that is, the interdependence of individuals and society. In this way, the liberal-communitarian debate seems to be misconceived. Why is this so? In the first place, an explanation of liberalism cannot be restricted to a simple, universal definition. Liberalism, like any other concept has been shaped by the political, social and historical context of its time. Thus to assume that liberalism can have a single definitive meaning would be to ignore the varying contexts which have given rise to the formation of the concept. Consequently, in this dissertation I explore trends of liberalism which would give the concept distinct meanings as opposed to one absolutely defined meaning. It is my contention that utilitarianism, political equality and



communitarianism are three trends of liberalism which guide meanings of the concept. This implies that utilitarianism, political equality and communitarianism offer distinct ways of understanding the roles of the individual and community in particular socio-political contexts. Therefore, to consider liberalism as the antithesis of communitarianism does seem to be a gross oversimplification.

Moreover, this dissertation also challenges the classical understanding of liberalism being associated exclusively with the procurement of individual freedom or rights as against the rights and freedoms of a community. I agree with Sandel (1982) that classical liberalism misconstrues the relationship between the self and its social roles and relationships, that is, classical liberals exaggerate individuals' capacity to distance themselves from social relationships, and hence exaggerate their capacity for individual choice. If this were to be the case as many classical explanations (definitions) of liberalism suggest, then it means that liberalism does not accentuate the rights of community. However, whether an individual can in fact function atomistically without relating to other individuals is an understanding which I find difficult to accept. Surely the decision of an individual voter who might think that she atomistically makes up her own mind to vote for a political party in some way effects the outcome of voting and hence, the political decisions which are going to be binding on other individuals. In this way, an individual does not really function in isolation from others. A parent does influence her child. Likewise, a teacher does make an impression or not on her student. The point is that individuals do not simply function in an "unsituated" or unrelated way.



They are socially connected in some way or the other. Here I agree with Taylor (1985) when he claims that classical liberals ignore the fact that individuals' capacity can only be developed and exercised in a certain kind of social, political and cultural context. Consequently, I disagree with explanations of liberalism, as I shall show in chapter 2 with reference to the ideas of liberal thinkers, which accentuate the role of the individual as separate from that of a form of community. Kymlicka (1989: 2) cogently posits:

(Many) liberals, in a misguided attempt to promote the dignity and autonomy of the individual, have undermined the very communities and associations which alone can nurture human flourishing and freedom. Any theory which hopes to respect these facts about the way in which we are socially constructed and culturally situated will have to abandon 'atomistic' and 'individualistic' premises and principles of liberal theories of justice.

To my mind, the ongoing debates concerning liberalism's focus on individuality and a sense of community should also have impacted on the liberal tradition as it unfolded in South Africa's political history. Any history that involves struggles for political freedom, human rights, equality and socio-economic justice (such as that associated with our country) has to be viewed consistently with the debates of philosophical liberalism. The emphasis of the Constitution on securing rights for persons and communities and socio-economic justice, shows how much South African political legislators locate liberal thought within the conceptual parameters of concepts associated with



the intellectual heritage of liberalism itself. It is my contention that South Africa's liberal tradition endorsed and reconstructed many of the concepts associated with past and contemporary philosophical liberalism. The extent to which our liberal tradition has adopted, adapted and reconstructed notions of individuality and community vis-à-vis the South African political set up is a task worthwhile exploring. Thus, with reference to two significant works, *Ironic Victory: Liberalism in Post-liberation South Africa* and *Democratic Liberalism in South Africa: Its History and Prospect* and other South African liberal views, I shall explore some of the gaps within the liberalism tradition with the aim to construct a credible notion of liberalism – one attuned to the notion of deliberative democracy.

### **1.3 GOALS AND THEORETICAL POINTS OF DEPARTURE**

The primary goal of this dissertation is to construct a defensible form of South African liberalism commensurate with the idea of a deliberative democracy. In this way, I hope to minimise some of the conceptual inadequacies (gaps) associated with the South African liberal tradition. In order to achieve this goal, my procedure is four-fold: Firstly, I shall discuss and evaluate at a philosophical-conceptual level two opposing philosophical conceptions of community and democracy in South Africa: a liberal versus a communitarian one. Why? My contention is that specific variants of community and democracy unfold in essential moments of the liberal tradition which impact on the way South African liberal thinkers frame their understandings of the kind of



political road the country needs to chart out in its quest to consolidate its multi-party democratic system of government.

Secondly, I shall specifically focus on an exposition of liberalism as a philosophical tradition in South Africa with the aim to find out how liberal thinkers deal with issues of community and democracy. My main contention, as I shall show, is that there are distinct gaps in South African literature on liberalism which could be bridged by reconstructing a defensible liberal conception of community and democracy.

Thirdly, I shall subject a reconstructed and defensible liberal conception of community and democracy to a deliberative democratic critique in order to show how conceptual weaknesses in the liberal understanding of community and democracy could be overcome. A deliberative democratic discourse, as I shall argue for, encourages "the mutual openness and accountability of different groups to each other's perspectives, each of which is committed to thinking from the standpoint of everyone else" (Bohman & Rehg, 1997: xxv). Put simply, a deliberative democratic discourse recognises that the flourishing of each citizen is dependent upon the flourishing of other citizens, whether politically and socio-economically disadvantaged or not, and which is fully compatible with the views of influential theorists such as Habermas (1996a), Benhabib (1996), Bohman (1996), Rawls (1997), Bohman and Rehg (1997) and Elster (1998). It is my contention that aspects of community and democracy within the conceptual parameters of the liberal tradition in South



Africa, at times, are incongruent with a deliberative account of community and democracy as espoused by Habermas, Rawls and Benhabib.

Fourthly, I shall attend to the notion that liberalism as a political good not only teaches individual citizens to know themselves as social beings, but also serves as the embodiment of liberal values aimed at unifying people according to “patterns of relationship, networks of power, and communities of meaning” (Walzer, 1990: 10). In other words, a constituent good of liberalism is to inculcate in people a sense of moral virtue or “public spiritedness” to respect the rule of law, to cultivate socio-economic justice and to promote commonality amongst themselves, that is to say, to foster a sense of citizenship (Miller, 2000: 83). Such a view of “public spiritedness” or citizenship seems to be in line with Lotter’s (2001: 91) argument that citizens need to develop by themselves a sense of “internal control” which can help them to contribute towards “establishing and maintaining the public conception of justice by being role models, engaging in dialogue with fellow citizens, or by simply doing their part in maintaining just institutions”. My argument is that a notion of citizenship can best be achieved through nurturing a deliberative democratic discourse.

In so far as my own theoretical orientation is concerned, I am attracted to Habermasian critical theory which is aimed at exploring and developing discourse specific to the particular historical situations with which it is concerned – discourse that have a practical purpose: to help people to change an unsatisfactory situation (Habermas, 1972: 308). Critical theory is



driven by the emancipatory interest; that is, its purpose is to contribute to change in people's understanding of themselves and their practices. Critical theory strives to engender self-reflective activity amongst individuals to bring about a clear articulation of arguments in an atmosphere of openness to overcome ideological distortions generated within social relations and institutions (Carr & Kemmis, 1986: 162). A critical approach to philosophical inquiry aims to generate critical action in others and gives rise to conditions to replace one distorted set of practices with another, hopefully less distorted, set of practices (Carr & Kemmis, 1986: 197). My contention is that if some of the inadequacies (gaps) within the South African liberal tradition are reconstructed, it has a better chance of contributing towards consolidating our fledgling liberal democracy. Critical theory not only positions one favourably to reconceptualise inadequate understandings of South African liberal thought, but also demands that one's own misunderstandings and misrepresentations be changes akin to a more defensible understanding of liberalism. It is here that the potential contribution of this dissertation lies. Since, critical theory constitutes the theoretical framework of thinking which embeds this dissertation, I shall examine in further detail what it entails.

Like Habermas, proponents of critical theory contend that positivist and interpretive inquiries, at best, only describe or explain the social world – such as describing or explaining what liberalism means. On the one hand, positivism claims that all events we want to explain are “facts in the world”, that is, of the same logical type. For positivist theory there can be no rational argument about values – values are subjective like feelings or attitudes.



Positivist theory insists that there is only one proper form of explanation, that is, the deductive-nomological (D-N) model of explanation: whenever (1) C happens then E occurs, (2) C happened, (3) therefore E occurred. The nomological statement indicated by (1), that is, C happens then E occurs, specifies a logically necessary relationship between variables. C is called the “independent” variable because in the context of this explanation the occurrence of C is independent of the occurrence of E, and E the “dependent” variable because its occurrence depends on the occurrence of C. For example, “Whenever a teacher gives information to a child, the child learns” is a nomological statement (it specifies a relationship between two facts – a teacher giving information to a child and the child learning). Moreover, for positivist theory the object of philosophical inquiry is to try to find nomological or “scientific” statements, that are hypotheses, and then to set out to try to “falsify” them (philosophical inquiry proceeds by formulating an hypothesis (“conjecture”), and then setting out to “test” it to try to refute it). Positivist theory claims that philosophical inquiry should enable one to gain better control over political processes with the link between explanation and prediction, and thus explanation and control, providing a haunting and powerful motive for philosophical inquiry.

On the other hand, interpretive theory insists on two central issues: the self-understanding of the individual forms the basis of all social interpretation (phenomenological or hermeneutical) and generally human consciousness is transparent (or that human explanations and interpretations, as they appear, do not conceal any deeper understanding of events). Vandenberg (1995: 188-



189) explains social interpretation on a phenomenological level according to three phases: (1) understanding or gaining insight into the phenomenon; (2) describing phenomena “by imagining a conversation with others to give one’s findings an inter-subjective testing”; and (3) recontextualising the well-defined phenomenon by locating it “within the whole educational domain and evaluating its significance for the development of an integral human life”. Danner (1995: 223) explains social interpretation as “hermeneutic understanding” which aims to make meaning explicit, to explain, to understand “sense” and to interpret meaning.

Both the above explanations of social interpretation accord with interpretive theory. Interpretive theory believes that analysis involves more than observation (as some positivists believe). The crucial point of analysis is to reach the self-understanding of the person acting in the situation, analysing and understanding his or her reasons for their actions (Fay, 1975: 74). For example, one person at a distance from another person waves her hand. How does one interpret her action? Perhaps she is calling the other person; or even making a gesture with her hand to show her anger; maybe she is just stretching her arm. In other words, her actions cannot just be observed and / or taken for granted that she is waving at the other person. Her actions have to be interpreted. We need to know her reasons for performing such an action; we need to know her self-understanding.

Interpretive theory rejects the claim that all events we want to explain are of the same logical type in terms of the view that human actions belong to a



different logical category from all other events in the world. For interpretive theory an understanding of human beings and society is logically different from an understanding of the natural world. For this reason, according to interpretive theory we cannot give a D-N explanation (causal explanation) of human action since the dependent variables (what is trying to be explained) cannot be identified (Fay, 1975: 74). Interpretive theory differs distinctly from positivist theory. A human action such as “acquiring knowledge” cannot simply be identified by mere observation or discovery. For instance, you open a text with some information about alligators. What are you doing? Perhaps you are reading the text to explain how alligators are similar to or different from crocodiles, or consulting the text in order to write an essay, or moving your eyes over the page without reading it. To know which of these actions is actually taking place I might need to know something about your purposes, or the context in which the action takes place. If I determined that what you are doing is “looking at the pages of the text”, I have interpreted the action by describing it - a view positivist theory rejects. I have explained your action in terms of your reason for doing it. In this way, different types of explanations exist for different actions theorists want to interpret or explain. On the one hand, positivist theory, in contrast, insists that there is one absolute or objective form of explanation. For interpretive theory on the other hand, to know the meaning of a word is to know how the word is used, and not just to get the “correct image” or “true picture”. In other words, meaning grows out of human experiences. For instance, for philosophers of education to get to know the meaning of education is to know how the concept is used and not just what they think it is or what they think it ought to be. I contend that



interpretive theory's concern with explanation, interpretation and analysis provides philosophical inquiry with some tools that break with inquiry as a positivist "science". These tools of analysis and interpretation are necessary but not sufficient for philosophical inquiry to change or transform the self-understandings of people.

Different from positivist and interpretive theories, critical theory provides resources and strategies both to criticize and change the social world. For critical theory "... the truth or falsity of (its) theories will be partially determined by whether they are in fact translated into action" (Fay, 1975: 95). In this regard, it is worth referring to Taylor (1985: 108) who convincingly argues against theories which merely explain events in the world. In his words, "... it is clear that theories do much more than explain social life; they also define the understandings that underpin different forms of social practice, and they help to orient us in the social world". In other words, theories (including critical theory) cannot just be seen as "reflections of interest" but they shape (sustain or reform) political practices to enable people to cope more effectively with the world (Taylor, 1985: 107).

Of relevance to my philosophical inquiry in this dissertation is the link Taylor establishes between theories that can shape effective practices and his notion of "shared goods" as distinct from "convergent goods":

By 'shared good', I mean something different and stronger than mere convergent good, where people may have a common interest in



something. A good is shared when part of what makes it a good is precisely that it is shared, that is, sought after and cherished in common. Thus the inhabitants of a river valley have a common interest in preventing floods. This is to say that each one has an interest in the same flood prevention, and this is so irrespective of whether they have some common understanding of it, or indeed, whether they form a community at all. By contrast, shared goods are essentially of a community; their common appreciation is constitutive of them (Taylor, 1985: 96).

Thus, for people to have shared practices does not mean that they merely have to reach agreement among themselves. That would be a convergent practice. To have shared practices, implies that people have to nurture and develop those common understandings which are constituted in the social practices of a community; understandings which were not conjured up on the basis of what was arbitrarily decided, but understanding which developed out of the practices of a community, that is, understandings which are constituted in a community's social practices, and which, in turn strengthen that community.

In essence, critical theory as "shared goods" develops understandings specific to the particular historical situations with which it is concerned – understandings and explanations that have a practical purpose: to help people to change an unsatisfactory or indefensible situation. My contention is that gaps within the South African liberal tradition represent such an unsatisfactory

situation which needs to be remedied. This dissertation is a modest attempt to reconstruct a credible notion of liberalism commensurate with the idea of deliberative democracy.

#### **1.4 RESEARCH METHODS**

Much contemporary philosophical liberalism has been largely analytical. It has mainly been concerned with conceptual clarification in building and defending systemic political theories. Conceptual clarification within analytical philosophy mainly involves exploring meanings of concepts and their concomitant histories. In a different way, contemporary philosophical liberalism domesticates its richly textured past (history) in the image of analytic self-understanding (Simhony & Weinstein, 2001: 4). In relation to the analytic nature of philosophical liberalism, my research methods involve the following categories: discussions with my promoter and other informants, a review of relevant literature and independent reflection related to analysing and exploring concepts and questions of meaning.

Moreover, my analysis of the tradition of South African liberalism is at the level of the nation-state for the reason that any understanding of the thoughts and practices which informed such liberalism can reasonably be achieved by analysing the socio-historical context in which the tradition unfolded. It would be inconceivable to assume that the tradition of liberalism could be understood in an informed manner without analysing the thoughts and practices of people who influenced South Africa's liberal path. For instance,



analysing the liberal concepts which make up South Africa's constitutional democracy requires that one explores the ways in which liberal ideas and practices manifested within the boundaries of the nation-state.

Of course, my potential critic might legitimately argue that liberalism in South Africa cannot be analysed in isolation from global neo-liberal influences which currently impact on the country's constitutional multi-party democratic system. I agree for the reason that South Africa's quest to consolidate its newly found democracy is continuously affected by economic, political and cultural determinants of globalisation which makes an analysis of liberalism within the boundaries of the nation-state somewhat anomalous. However, before one can understand how global determinants influence South Africa's consolidation of its multi-party democracy, one first needs to know what constitutes the thoughts and practices of such a system of government. Similarly, an analysis of the tradition of liberalism in South Africa presupposes an analysis of global determinants which impact on the unfolding of such a tradition. I am not suggesting that a global analysis of liberal thought and practice is not important, but before one can actually do so, one first requires some understanding and analysis of the way in which the liberal tradition manifested in South African political discourse. In this way one would be favourably positioned to explore how global determinants shaped the tradition of liberalism in South Africa. Kymlicka (2002: x) makes the point that political philosophers must grapple with problems and realities which are common to their situational contexts, before one can start forming judgments about whether we are making progress towards achieving them in the context of



global concerns. In other words, one first needs to understand the needs, aspirations and complexities of the tradition of liberalism in South Africa, before one can begin to make judgments about its success or not in a global context. Consequently my level of analysis is at the level of the state without being oblivious of the importance of global influences which impact on South Africa's multi-party democratic system of government.

## 1.5 PROGRAMME OF STUDY

This dissertation aims to identify and narrow several gaps within the South African liberal tradition vis-à-vis notions of community and democracy. In my attempt to reconstruct a more credible notion of liberalism with reference to ideas of community and democracy I have organised my research project as follows:

In **Chapter 2** I shall firstly analyse and explore various general strands of liberalism in relation to notions of individualism and community with the aim of serving as a general framework for an analysis of the liberal tradition in South Africa, as will be occur in chapter 3 of this dissertation. I shall specifically analyse the philosophical underpinnings of liberal strands such as utilitarianism, liberal equality and communitarianism in order to gain more clarity regarding to relations between individuals and communities.

In **Chapter 3** I examine essential moments in the history and theory of the liberal tradition in South Africa, in particular how liberal thinkers view liberty



vis-à-vis community and democracy. I specifically analyse some of the gaps within a snapshot of the liberal tradition with the view to construct a credible notion of liberalism.

In **Chapter 4**, I shall explore a concept of deliberative democracy that can help to bring to light (1) conditions that are favourable for the advancement of “public deliberation” with reference to three major statements on the concept – Habermas’ rational, consensus-oriented discourse, Rawls’ public reason and Benhabib’s discursive democracy. I then analyse the general principle of rationality which constitutes deliberative democracy, before moving on to a discussion as to how and why it can engender better political discourse in South Africa.

In **Chapter 5**, I subject weaknesses which I have identified in the liberal tradition in South Africa, to deliberative democratic scrutiny in order to come to a deepened and more justifiable understanding of democracy (including the eradication of socio-economic injustice) in a diverse South African society.

In **Chapter 6**, I explore some of the weaknesses associated with deliberative democracy before moving on to a discussion of how the discourse can cultivate citizenship in South African society. My contention is that citizenship is a unifying force which can hold a diverse South African society together along the lines of communitarianism, that is, “reasoning together with others” in order to secure the legitimate interests of most people in political decision-making.

## **1.6 SUMMARY**

This introductory chapter is an attempt to map the conceptual and procedural aspects related to this research dissertation. Conceptually, I am attracted to aspects of political philosophy within the parameters of a critical theoretical paradigm. Procedurally, I shall firstly explore and analyse the intellectual roots of liberalism, before moving on to a discussion of deliberative democracy which I consider as an antidote to close the gaps left by South Africa's liberal heritage. My contention is that deliberative democracy provides an adequate theoretical framework in terms of which notions of community and democracy can be framed.



## **CHAPTER 2**

# **THEORETICAL PERSPECTIVES ON LIBERALISM AND COMMUNITARIANISM**

## **2.1 INTRODUCTION**

Any analysis of essential moments in the liberal tradition in South Africa with the aim to identify gaps and to construct a credible view of liberalism, invariably taps into the richness of the liberal tradition as understood in liberal political theory. Much of what can be associated with liberalism in South Africa (as I shall point out in chapter 3) draws on the intellectual roots of liberalism or what Simhony and Weinstein (2001: 1) refer to as “a family of liberalism”, that is, strands of liberalism. Since the 1970s, these strands of liberalism are mostly associated with shifts in liberalism from utilitarianism to liberal equality to communitarianism, effectively integrating many essential communitarian concerns with traditional liberal commitments. For the reason that essential moments in South African liberalism cannot be seen independently from these shifts in liberal political theory, it seems feasible to examine the rich heritage of liberalism, at least with reference to notions of individualism and community. Why? These strands of liberalism also provide philosophical spectacles through which notions of individualism and community are framed which in turn, have important implications for liberal democracy in South Africa. I shall now explore various strands of liberalism in relation to notions of individualism and community with the aim to gain more clarity about the liberal



tradition in South Africa as will be discussed in chapter 3 of this dissertation. These strands of liberalism include, utilitarianism, liberal equality and communitarianism.

In the previous chapter, I have already enunciated the sort of liberalism I am interested in defending. I am averse to views on liberalism which accentuate excessive individualism or atomism, and which ignore manifest ways in which individuals are embedded or situated in various social, political and cultural relationships. The term “liberal” has been used in many different ways and fields of study, and defining its central features can be as controversial as evaluating them. My concern with liberalism in this dissertation firstly involves the capacity of individuals to have resources and freedoms to live a good life without being penalised by others for holding different views about the good life, albeit in a political, religious or cultural sense. Hence, I am (liberally) concerned with civil and personal freedoms. Secondly, I am also concerned about individuals acquiring different views about the good life, as well as intelligently examining and re-examining such views. Thus, I am (liberally) concerned with freedom of articulation in a rational way. These concerns with liberalism are not necessarily what classical or seventeenth century liberalism is about. Usually, classical liberalism involves abstract individualism and skepticism about the good life. Abstract individualism depicts individuals as “given” with interests, wants, purposes and needs, that is, “given” independently of a social context, while society and the state are pictured as sets of actual or possible arrangements which respond more or less adequately to individuals’ requirements (Lukes, 1973: 73). As I shall show,



neither of the above mentioned assumptions about liberalism dominates the theories of Mill and Rawls – two prominent liberals. Jagger's (1983: 40) discussion on liberalism illustrates the classical view of the concept I contest in this dissertation:

The liberal assumption (is) that human individuals are essentially solitary, with needs and interests that are separate from if not in opposition to those of other individuals. This assumption is the starting point of liberal theory. It generates what liberals take to be the fundamental questions of political philosophy: what are the circumstances in which essentially solitary individuals might agree to come together in civil society, what would justify them in doing so and how might conflict be prevented when they do?

Jagger's view that individuals are "essentially solitary" and separate from other individuals, confirms classical liberalism's concern with a kind of "abstract individualism" which discards the social. If one accepts that individuals' goals and interests are products of social interactions such as political decision making, then the classical liberal view that individuals are "pre-social" seems to be a misconception. The fact that individuals can go outside of society to revise and re-examine their political commitments without the influence of other individuals does not seem to be a logical claim. When political actors question and revise their allegiance to political parties, they do not go outside society to do so, nor do they transcend any social conditioning in achieving this. It seems absurd to think that political actors need to exist



outside society to revise their choices. Thus, with reference to three significant strands of liberalism, I shall show that the classical liberal idea of an abstract, unsituated individual is misconceived.

## 2.2 UTILITARIANISM

Utilitarianism, as a self-conscious political and philosophical movement, arose as a radical critique of English feudal society, a society whose practices utilitarians believed were organised to benefit a small privileged elite at the expense of the rural and working class majority (Kymlicka, 2002: 47). In its simplest formulation, utilitarianism claims that the morally right act or policy is that which produces the greatest happiness for the members of the society, which means that the pursuit of human welfare or utility be done impartially for everyone in society (Kymlicka, 2000:10-11). For JS Mill (1998: 142) who devoted most of his intellectual life to the project of reconstructing in a more satisfactory and more liberal form classical utilitarianism, utility or happiness is not merely confined to “the agent’s own great happiness, but the greatest number of happiness altogether ... (which) makes other people happier”. Thus, utilitarianism not only calls for the achievement of the well being or happiness of human beings but also to maximize or give *equal* weight to each person’s welfare or utility, what Mill (1998: 142) refers to as the cultivation of “the nobleness of others”. In other words, according to such an egalitarian theory of utility, no individual stands in a privileged position or has a greater claim to benefit than any other individual. This equal consideration of interest argument is implicit in J.S. Mill’s claim that utilitarian morality involves “To do



as you would be done by, and to love you neighbour as yourself ..." (Mill, 1968: 16). The claim "To do as you would be done by" implies that each individual's interest should be given equal weight, whereas "To love your neighbour as yourself" denotes a morally right act which will maximise an individual's utility. Hence, utilitarianism is in fact an egalitarian theory in the sense of being premised upon moral equality. Mill (1998: 148) posits that this notion of "utilitarian morality does recognize in human beings the power of sacrificing their greatest good for the good of others".

Liberty (freedom) is an value in utilitarianism since the protection of individual liberty is of great importance to utilitarianism. This is obvious in the case of utilitarians, like Mill, who felt that utility was maximised by according individuals the freedom to choose their own form of life. Mill (1982: 122) emphasised that individuals, in a self-determining way, must be able to determine for themselves whether inherited social practices in all forms of life (both social and political) are "properly applicable to his (her) own circumstances and character". In other words, Mill's insistence that individuals have the right to question whether social practices are worthy of allegiance and to question such practices clearly provides individuals with a sphere of self-determination to be respected by others. As Mill put it, it is the right and prerogative of each mature individual to interpret for himself (herself) the meaning and value of their experiences, that is, the right to be self-determining in major decisions in life is inviolate (Mill, 1982: 123). Put differently, each individual, if denied the liberty he (she) is entitled to, is being denied his (her) equal standing as a human being whose utility is a matter of



equal concern. Thus, Mill recognised the capacity of individuals for personal growth in exercising and successfully developing their inner capacities, deciding what to do with their lives. Several critics of Mill's conception of the individual accuse him of failing to locate social relations (that is, a sense of community) at the core of the inner capacities of the enclosed individual self. Bosanquet (1910: 61) claims that Mill's understanding of individual liberty "lies in a sort of inner self, to be cherished by enclosing it", whereas Norman (1983: 156) argues that Mill devalues a sense of community by accentuating the idea of "the isolated individual". My own reading of Mill is that he does recognise the importance of community. In *Utilitarianism* Mill insists that selfishness, that is, "(individuals) caring for nobody, but themselves ..." is the main cause for not maximising their utility, of enjoying meaningful lives (Mill, 1963: 25). Likewise in *On Liberty*, Mill insists that his plea for individual liberty is not a defence of selfishness but that there is an increasing need to promote a sense of community: "It would be a great misunderstanding of this doctrine (utilitarianism) to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life, and that they should not concern themselves about the well-doing or well-being of one another ... there is a need of great increase of disinterested exertion to promote the good of others" (Mill, 1998: 84).

If Mill did have such an abstract view of the self, then he would not have criticised Bentham's view of liberalism as "that of a collection of persons pursuing each his (her) separate interest or pleasure ... the prevention of whom from jostling one another more than is avoidable" (Mill, 1962: 70).



Instead, Mill posits that such a view of the self is of little help for people in the formation of their character, for the reason that it ignores the fact that social interaction modifies our character in accordance with essential interests in living a good life. Mill (1962: 71) claims that people's concern is not only with promoting their worldly interests, but also with the manner in which their affections and desires, that is, characters are formed through social interactions. In this way, Mill states, one can defend the liberal concern for civic freedoms, for a public sphere of expression, and for a liberal education. In his words,

... (F)or how can we judge in what manner many an action will affect even worldly interests of ourselves and others, unless we take in, as part of the question, its influence on the regulation of our, or their, affection and desires? A moralist on Bentham's principles may get us as far as this, that he ought not to slay, burn or steal; but what will be of his qualifications for regulating the nicer shades of human behaviour, or of laying down even the greater moralities as to those facts in human life which are any influence on worldly circumstances ... (Mill, 1962: 71).

Before moving onto a discussion of why utilitarianism's conception of equality seems to be inadequate, it is worth exploring some of the problems critics of utilitarianism have with its perceived emphasis on atomistic individualism.



According to utilitarian critics atomistic individualism<sup>3</sup> affirms the self-sufficient, self-attentive and personal freedom of individuals with limited external constraints. An atomistic, self-attentive individual does not depend on her relationships with others for the realisation of her ends and has ontological priority over the community (Gyekye, 1997: 35). For Miller (in Simhony & Weinstein, 2001: 2) atomistic individualism defends its political position by “invoking an individualistic view of the self”. In others words, atomistic individualism considers people as solitary and abstract who find fulfillment in separation from each other (Simhony & Weinstein, 2001: 2). Kymlicka (2002: 212) posits that for many utilitarian critics “the problem with liberalism is not its emphasis on justice, nor its universalism, but rather its ‘individualism’”. According to this criticism, he argues, atomistic individuals base their theories on notions of individual rights and personal freedom, but neglect the extent to which individual freedom and well-being are only possible in community.

Moreover, critics of atomistic individualism complain that the concept is nothing but a political life of excessive individualism, self-discovery, self-realisation and self-fulfillment without respect for the claims of others. Like the critics of the 1960s, those of the 1980s and beyond fault atomistic individualism for being “mistakenly and irreparably individualistic” (Gutman in

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<sup>3</sup> Fukuyama (1992: xiv-xxi, 159, 172) asserts that the primary motive for the rise of liberal democracies, sparked by the French and American revolutions and galvanised by the natural sciences and technology, is the individual's desire and struggle for recognition - understood as “... a form of self-assertion, a projection of one's own values on the outside world, and gives rise to feelings of anger when those values (freedoms) are not recognised by other people”. Individuals exert themselves in pursuit of recognition which involves securing private freedoms indifferent to the “things of this world” - beginning with private property and ending with their own happiness - in the face of limited state intervention. For Fukuyama (1992: 160) such a liberal view of human beings as advocated by Hobbes and Locke pejoratively characterises the individual as “narrowly consumed with his (her) own immediate self-



Gaus, 2001: 137). Simhony and Weinstein (2001: 15) purport that atomistic individualism “conceives individuals as competitive, self-centred, and independent, and social life simply as an arena for coordinating the competitive pursuit of private (self-) interests”. Galston (1991: 42) argues that atomistic individualism is claimed “to undermine community, to restrict unduly opportunities for democratic participation, to create inegalitarian hierarchy, and to reinforce egoistic social conflict at the expense of the common good” – the latter referring to “a good in which each man (woman) has a share and that share, in turn, consists in realizing his (her) capacities of feeling ... of mental and physical energy, and in realizing these he (she) plays his (her) part in the social life ... the common good is simply the total of all lives that are in mutual harmony” (Weinstein, 2001: 177).

If, as I have previously stated, Mill’s utilitarianism does not ignore “the good of others” in relation to his conception of the individual, it would be worth looking at critiques of atomistic individualism which builds on other earlier forms of liberalism. These include, the individualism of disengaged rationality pioneered by Descartes whereby each person thinks self-responsibly for him- or herself and the political individualism of Locke, which considers the will of the person prior to social obligation. To put this point more broadly in Taylorian terms: in a liberal democracy, atomistic (self-absorbed) individuals “are ‘enclosed’ in their own hearts ... where few will want to participate actively in self-government. They will prefer to stay at home and enjoy the

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preservation and material well-being interested in the community around him (her) only to the extent that it fosters a means of achieving his (her) private good (freedom)”.



satisfactions of private life, as long as the government of the day produces the means to these satisfactions and distributes them widely" (Taylor, 1991: 9).

Atomistic individualism differs from possessive individualism in the sense that the latter suggests that what people (individuals) want in life is to maximise their share of social resources and material goods, rather than promote the good of others or their own spiritual well-being (Kymlicka, 1989: 886). For atomists, an individual's capacity for meaningful choice is "self-sufficient outside of society and culture" (Kymlicka, 1989: 894). Likewise for Galston (1998: 47-50) the atomistic individualism is sensitive to the claims of "individual conscience", that is, a concern for individual rights and for what is sometimes called the private sphere, which limits the legitimate power of "political community". Taylor (1991) offers several reservations against atomistic individualism, which I shall briefly discuss under the following constitutive features of the concept: subjectivity, neutrality and narcissism.

First, atomistic individualism in a subjectivist sense is primarily concerned with the right of individuals to develop "their own form of life, grounded on their own sense of what is really important or of value ... for him- or herself" (Taylor, 1991: 14). Kymlicka (2002: 245) posits that atomistic individuals claim not to be "in need of any communal context in order to develop and exercise their capacity for self-determination". Individuals being concerned with developing "their own form of life" aim to achieve a kind of "self-fulfillment" disengaged from matters of public importance, albeit religious, political or historical. Such a subjectivist view of liberalism is one whereby individuals do



as they choose and do not have to decide and act together. Each individual has the right to pursue his or her own interest and to do what they individually happen to desire. In other words, subjectivity sees the individual as ontologically “prior” to the social, that is, maintaining that the individual's thoughts and actions are free and independent of the society in which they are embedded (Sandel, 1998: 19). In any case “self-fulfillment” cannot merely be associated with atomistic individuals who consider themselves detached from a sense of community. In this regard, Sullivan (1982: 158) posits the following:

Self-fulfillment and even the working out of personal identity and a sense of orientation in the world depend upon a communal enterprise. This shared process is the civic life, and its root is involvement with others: other generations, other sorts of persons whose differences are significant because they contribute to the whole on which our particular self depends.

Certainly the South African democratic transformation process cannot accommodate a non-communitarian subjectivist understanding of self-fulfillment which is loath to acknowledge the claims of collective religious, political and historical identities<sup>4</sup> for the reason that democratic transformation in the first place requires “collective intervention” (Hudson, 2000: 97).

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<sup>4</sup> The question of identity is often phrased by people in the form of “Who am I?”. This “Who am I?” does not merely refer to the genealogy or name of a person but rather, to “the commitments and identifications which provide the frame or horizon within which we I can try to determine from case to case what is good, or valuable, or what ought to be done, or what I endorse or oppose ... the horizon within which I am capable of taking a stand” (Taylor 1989: 27). The point is that in order to know who you are suggests that you be oriented towards moral ‘spaces’ in which questions arise about what is good or bad, what is worth doing and what not, and what has meaning and importance for you (Taylor 1989: 28). According to Taylor (1989: 30, 34) our identity is what allows us to define what is important to us and what is not whereby we orient ourselves in a moral space towards the good: “... (W)e are only



Democratic transformation directly or indirectly affects all South Africans. Each person's individual concern is a matter of common concern since transformation has implications for all South Africa's citizens. Transformation depends on the conditions of society as a whole, a notion that stands in stark contrast with subjectivist individualism, which reifies the individual over society. In this regard I agree with Taylor (1991: 15) when he states that subjectivity "widely espoused today is a profound mistake, even in some respects self-stultifying. It seems true that the culture of self-fulfillment has led many people to lose sight of concerns that transcend them". Such subjectivist individualism, to use Sandel's expression (1998: 19), defines the self as "prior to its ends" which accords supreme value to individual autonomy and agency and stands opposed to collectivism. In his words, "... a conception of the self-given prior to its aims and attachments could not make sense of certain important aspects of moral and political experience. Certain moral and political obligations that we commonly recognize – obligations of solidarity, for example, or religious duties – may claim us for reasons unrelated to a choice. Such obligations are difficult to dismiss as merely confused, and yet difficult to account for if we understand ourselves as free and independent (atomistic) selves, unbound by moral ties we have not chosen (Sandel, 1998: 188). The above criticism of atomistic individualism is supported by Kymlicka (1989: 894) for whom an "atomist route ... is inadequate since our dependence on the cultural structure for worthwhile ways of life is undeniable, and few if any liberals have ever been 'concerned purely with individual choices ... to neglect of the matrix in which such choices can be open or closed, rich or meagre'".

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selves insofar as we move in a certain space of questions, as we seek and find an orientation



Second, atomistic individualism also accords importance to neutrality. In the words of Taylor (1991: 17)

One of its (atomistic individualism's) basic tenets is that a liberal society must be neutral on questions of what constitutes a good life. The good life is what each individual seeks, in his or her own way, and government would be lacking in partiality, and thus in equal respect for citizens, if it took sides on this question.

If, according to neutrality, the good life should be what each individual strives for, then it could mean that individuals can lay claim to unconstrained demands such as for South African blacks to receive preferential treatment in terms of posts, positions, capital and credit or for white citizens to oppose transformation. In other words, transformation within a liberal framework of neutrality is understood as an effort to realise specific and unrestricted conceptions of the good life at the expense of the collective. Such a conception of the good life whereby individuals could do what they want without interference from the state would be difficult to defend for the reason that human beings in the first place are not isolated from one another. It is in this context that Taylor (1991: 47) claims:

My discovering my identity doesn't mean that I work it out in isolation but that I negotiate it through dialogue, partly overt, partly internalized, with others. That is why the development of an ideal of inwardly



generated identity gives a new and crucial importance to recognition.

My own identity crucially depends on my dialogical relation with others.

Thus, for white citizens to oppose transformation depends in part on their relations with and towards others. Similarly for black citizens to expect preferential treatment depends on their relations with and towards others. If people are allowed to do whatever pleases them it would lead to societal chaos and an extreme disregard for the conditions of law and order. Here I agree with the position of Raz (1986: 133) that the role of the state cannot be neutral in terms of allowing individuals to make their choices without any form of interference. He holds that individual (personal) well-being depends on social and institutional forms, that is, the “provision of many collective goods is constitutive of the very possibility of autonomy” (Raz, 1986: 207). In other words, individuals are deeply social and dependent on their relations with one another. In a MacIntyrean sense, it is the individual qua citizen who reasons together with others. Liberal neutrality fails to encourage social practices in which people are challenged to develop appropriate practices in association with one another (Pettit, 1994: 180).

Third, atomistic individualism also involves what Taylor (1991: 54) refers to as “the culture of narcissism”, that is, “the spread of an outlook that makes self-fulfillment the major value in life and that seems to recognize few external moral demands or serious commitment to others”. The idea of self-fulfillment or “being true to oneself” appears to challenge the notion of dependency whereby individuals are concerned about their own interests and



relationships. Individuals feel they are “called” not to be concerned about others and to avoid active engagement with any form of public discourse, that is, “a joint, cooperative form of social action” (Bohman, 1996: 54). Taylor (1991: 16) describes self-fulfillment as follows:

It's not just that people sacrifice their love relationships, and the care of their children, to pursue their careers. Something like this has perhaps always existed. The point is that today many people feel called to do this, feel they ought to do this, feel their lives would be somehow wasted or unfulfilled if they didn't do it.

Certainly for a newly found democracy like South Africa individuals cannot only be true to themselves, that is, to their choices, careers and relationships. The fact that the development of democracy involves the participation of different individuals<sup>5</sup> in critical engagement about the meaning of their past and possibilities for the future provides a serious challenge to narcissist individualism. Despite individuals' desire to be true to themselves, their private concerns in relation to societal and political life will always affect others. An individual's desire to vote for a political party does impact on the political reconstruction of a particular society. The issue of how individuals become individuated into the societal rules and norms is an issue ignored by narcissist individualism due to its individualistic, non-social conception of the person. Jonathan (1997: 147) claims that such a position on liberalism sees the individual as a person who “contracts” his or her social connections but who is



“existentially separate from their context ... acting upon society and acted upon by it”.

In summary, the major problems with atomistic individualism are its individualist orientation based on subjectivist, neutral and narcissist conceptions of the self. The priority of the individual over the social is linked to an untenable understanding of freedom which disregards the fact that the freedom people might have is conditional upon the social structures in which they are embedded. Since Aristotle it has been articulated that human beings ascribe to social practices (Pettit, 1994: 182). This means that an individual is only so when she realises her unique individuality and the commonality between her and other persons close to her and surrounding her. Kwant (1973: 9) notes that the human self lives by herself and also exists in relation to the group or other people.<sup>6</sup> In other words, an individual in isolation, cannot be bonded to others on the basis of language, culture, history and self-understanding. Instead, an individual possesses some natural inclination to co-exist with other people. He or she is not alone but has a relationship with family, neighbours and other members of society.<sup>7</sup> By implication the individual person is structured as a social being (Kwant, 1973: 19).<sup>8</sup> In this regard Olssen (2000: 503) posits:

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<sup>5</sup> In a democracy different individuals are obliged to share power with others who might be of different mind (Pettit, 1994: 187).

<sup>6</sup> In his words, “Het ‘zelf’ neemt immers zowel een groepsgestalte aan alsook een individuele vorm” (Kwant, 1973: 9).

<sup>7</sup> Kwant (1973: 61) claims the following: “...(H)et is ook waar dat de mens de fundamentele mogelijkheid bezit zich in te leven in het denken, in het aanvoelen, in het belang van andere mens. Wij bestaan zo, dat wij tot coëxisteren in staat zijn”.

<sup>8</sup> Kwant (1973: 19) notes the following: “Dit impliceert dat de mens iemand is die op zeer vele wijzen gestructureerd is ... Daarom is hij een behoeftig organisme”.



People's development, their freedom, and their well-being are dependent upon social forms, and this may give them a degree of autonomy but it could not make them autonomous in anything but a highly relative sense.

Now that I have explored some of the constraints atomistic individualism encounters in order to sustain any form of democratic society (not surprisingly since, as I show in chapter 3, South African liberalism has never been associated with atomism), it would be fair to say that over-exaggerated criticism of utilitarianism's perceived emphasis on atomistic individualism seems unfounded. Mill does not seem to locate atomism at the core of his conception of the individual. According to John Rawls' project, as I shall show in turn, utilitarianism's conception of equality is inadequate and vulnerable to critique, and not its conception of the role of a self-determining individual, neither to unfairly equate Millian individuality with atomistic individualism. Instead, in *On Liberty* Mill (1998: 148) insists that utility places the happiness of every individual "as nearly as possible in harmony with the interest of the whole ... (establishing) in the mind of every individual an indissoluble association between his (her) own happiness and the good of the whole" – an idea of utility which seems to encourage the concept of community. This brings me to a discussion of what is wrong with the utilitarianism's conception of equality according to Rawls' project.

## 2.3 LIBERAL EQUALITY

The weakness in utilitarianism as a conception of equality is adequately illustrated by comparing it with Rawls' "general conception" of justice as enunciated in *A Theory of Justice*. When one compares these two conceptions, utilitarianism seems implausible as an account of moral equality, at odds about what it means to treat people with equal consideration. In presenting Rawls' ideas, I shall first explicate his "general conception" of justice: "All social primary goods – liberty and opportunity, income and wealth, and the bases of self-respect – are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored" (Rawls, 1971: 303). Rawls ties the idea of justice to an equal sharing of social goods, but he adds that by treating people as equals does not mean that one has to remove all inequalities, especially when the presence of such inequalities favour the least advantaged. For instance, if giving poor citizens a better pension allowance than wealthy citizens actually promotes the welfare of the poor without disadvantaging the living conditions of the wealthy, then inequality is allowed.

Rawls breaks down this "general conception" of justice into two principles:

First Principle – Each person is to have an equal right to the most extensive total system of equal liberties compatible with a similar system of liberty for all.



Second Principle – Social and economic inequalities are to be arranged so that they are both:

- a. to the greatest benefit of the least advantaged, and
- b. attached to offices and positions open to all under conditions of fair equality of opportunity (Rawls, 1971: 56).

According to these principles, equal liberties take precedence over equal opportunities, which take precedence over equal resources. But central to both principles is the idea that an inequality is allowed if it benefits “the least advantaged”. In order to show how Rawls differs from the utilitarian conception of equality, I shall focus on his “difference principle” (second principle) which governs the distribution of economic resources. The utilitarian justification for economic distribution in society is based on the idea of giving equal weight or consideration to each person’s utility (welfare). No matter how much the wealthy already have, their desire for more resources continues to count equally, even when resources they want must come from the “least advantaged”. As a result, the utilitarian commitment to treat people as equals allows others (in this instance, the “least advantaged”) to be treated as less equals, as means to other people’s (the wealthy) ends. Utilitarians simply assume that each person’s preference should be given equal or the same weight, if one wants to secure equal utility. This idea conflicts with Rawls’ theory, for while Rawls also requires equality of opportunity in distributing resources, under the “difference principle”, people only have a claim to a greater share of economic resources if they can show that it benefits those among the “least advantaged”. By contrast, under the utilitarian idea of



equality of opportunity, the “least advantaged” have no right to expect to benefit from an unequal distribution of resources which favour those well off citizens.

Certainly Rawls’ liberalism in *A Theory of Justice* does seem to indicate some sort of affinity with individualism and community being held in suspicion. The subjects of his theory of justice are “persons” and “men”:

Men are to decide in advance how they are to regulate their claims against one another and what is to be the foundation charter of their society. Just as each person must decide by rational reflection what constitutes his good, that is, the system of ends which it is rational for him to pursue, so a group of persons must decide once and for all what is to count among them as just and unjust. The choice which rational men would make in this hypothetical situation of equal liberty, assuming for the present that this choice problem has a solution, determines the principles of justice (Rawls, 1971:57-58).

Thus it seems as if Rawls’ earlier liberalism relied on an individualist understanding of the self as an “unsituated chooser” which held community and common good in suspicion (Simhony & Weinstein, 2001: 11). In his more recent work entitled, *Political Liberalism*, Rawls still endorses his two principles of justice: the liberty principle which guarantees every citizen equal basic liberties; and the difference principle which requires an equal distribution of resources except where inequalities benefit the least advantaged people.



Yet, it is his argument for the liberty principle which has changed. Rawls' conception of liberty is no longer merely limited to providing equal basic liberties to individuals, but that liberty (freedom) must be interpreted in terms of an individual's capacity to form and revise his (her) conception of what it means to do good. "As free persons, citizens claim the right to view their persons as independent from and as not identified with any particular conception of the good, or scheme of private ends" (Rawls, 1993: 30). For instance, according to this Rawlsian idea of "political liberalism" every individual affiliated to a particular religious group has the right to exercise his (her) rights and in so doing attempts to restrict or eliminate group-imposed hindrances that would nullify such private individual rights. In other words, groups cannot limit the basic liberties of their individual members, including their right to be non-religious or to question and revise inherited conceptions of the good (Kymlicka, 2002: 238). What Rawls' "political liberalism" involves, is not only giving to individuals certain formal legal rights to revise their understandings of what it means to do good, but also knowledge of these rights, as well as the educational and legal conditions required which would enable individuals to exercise such rights in an autonomous way (Kymlicka, 2002: 239).

But Rawls also concedes that citizens' private ends may be situated or what Miller (2000: 47) refers to as "encumbered ones": "They may regard it as simply unthinkable to view themselves apart from certain religious, philosophical, and moral convictions, or from certain enduring attachments and loyalties" (Rawls, 1993: 31). In other words, Rawls does not seem to



reject the notion of community, that is, to view individuals as “socially unsituated” (Simhony & Weinstein, 2001: 12), “unencumbered” or not being tied to a particular group (Miller, 2000: 45). To put this another way, as Miller (2000: 45) argues, Rawls’ “political liberalism” sees citizens of liberal democracies as having a double identity: “In their personal or private capacity they are seen as holding a conception of the good, a view about what a valuable life consists in, which may include, for instance, their personal tastes or religious beliefs. This conception is pursued in day-to-day life and forms the basis of the many voluntary associations that flourish in a liberal society”. In essence, Rawls does value community especially where it serves as “a fair scheme” where “people develop their different and complimentary talents and skills, and engage in mutually advantageous co-operation” (Rawls, 1993: 206). In essence, Rawls’ ideas accentuate a concern for individual choice and civil liberties, as well as a defence of the social (communal) formation of people’s interests:

... (People should) regard themselves as having a highest-order interest in how all their other interests, including even their fundamental ones, are shaped and regulated by social institutions. They do not think of themselves as inevitably bound to, or as identical with, the pursuit of any particular complex of fundamental interests that they have at any given time, although they want the right to advance such interests (provided they are admissible). Rather, free persons conceive of themselves as beings who can revise and alter their final ends and who



give first priority to preserving their liberty in these matters ... under condition that are free (and socially situated) (Rawls, 1974: 641).

The question arises: Can Rawls' "political liberalism" strategy succeed in accommodating the interest of many communitarians? In order to address this question, in the next section I shall expound on various strands of communitarianism in particular showing that Rawls' liberal conception of the individual self is at odds with the communitarian conception of the embedded self.

## **2.4 COMMUNITARIANISM**

Communitarianism is described as a thesis about the social construction of the self, that is, the self cannot be understood apart from the social relations in which it is embedded (Miller, 2000: 99). For communitarians, individuals make up social practices and institutions in which they pursue their aims in collaboration with one another. Miller identifies three variants of communitarianism which emphasise the social constitution of the self and the embeddedness of the individual in social relations: a liberal communitarianism which seeks to create and support a pluralist society that provides conditions for individual autonomy, for instance, to be free to reflect critically upon the ethos of a particular group to which they belong by voluntary consent; a conservative form of communitarianism which argues that preserving the authority of a single inclusive community is the precondition for social cohesion (unity) amongst individuals and groups; and a left communitarianism



which looks to an inclusive community where the most basic form of association must be as equal citizens engaged in collective self-determination (Miller, 2000: 106).

Firstly, liberal communitarians among whom Will Kymlicka is a distinguished representative in recent political philosophy, holds that there are many valuable ways of life which people may choose to pursue in an autonomous way after reflecting on alternative ways of the good life. Although this sounds very much Rawlsian, the communitarian twist occurs when Kymlicka argues that both the availability of a plurality of ways of life and the capacity for autonomous choice depend upon a communal background and by “restricting certain individual rights” (Kymlicka, 2002: 240). In his words, “... if we truly wish to accommodate communitarian conceptions of the self, then we must be willing to provide some exemption for communitarian groups from the rigorous enforcement of individual liberties” (Kymlicka, 2002: 240). The point is that people cannot just engage in societal practices (family life, religious observance and educational discourse) and political institutions (Parliament and voting), unless there are groups of people in society who engage in such practices and institutions. Moreover, as Miller (2000: 102) asserts, the individual’s capacity to exercise his (her) autonomous choice and to reflect critically upon any particular way of life is not something that people are natively endowed with, but a capacity that is nurtured by “autonomy-supporting practices and institutions whose existence cannot be taken for granted”. This suggests that there is a deep tension between the communitarian conception of the embedded self and the Rawlsian



commitment to the priority of the individual's right of freedom to revise his (her) conception of the good life. What liberal communitarians want is that the individual's right of freedom be subordinated to the group's right to uphold a conception of the good. For example, where a Rawlsian conception of the person is one which recognises the individual's capacity to form and autonomously revise his (her) religious beliefs, liberal communitarians would want to limit the civil liberties of their members, including the right of individuals to hold religious views different from those of the group. Thus community becomes a condition of autonomous choice; that is, autonomy cannot be fully achieved unless members are able to reflect critically upon assumptions and ethos of any particular group to which they belong (Miller, 2000: 103). Rawls' strategy of "political liberalism" continues to enforce individual civil rights, which makes it hostile to the liberal communitarian conception of the constitutive or embedded self (Kymlicka, 2002: 244).

Secondly, a conservative form of communitarianism or "communitarianism of the right" argues that we have to feel that we belong together in a common society before we can consolidate the political institutions that will govern us (Miller, 2000: 104). In other words, unlike liberal communitarianism's emphasis on community as a voluntary association, communitarianism of the right emphasises unity amongst people to occur within a community that would be hard to leave, thus being a source of authority. Such an inclusive community shares a language, history, common culture and identity (Miller, 2000: 104).



Thirdly, “communitarianism of the left” seeks to preserve or establish a community on the basis of equality, and that the community should be actively and collectively self-determining rather than subjected to “authority of tradition” (Miller, 2000: 105). On the one hand, each member of such a community enjoys equality of status despite occupying and unequal standing. For instance, an engineer is equal to a garbage collector in terms of being persons, although one is regarded as more capable than the other at solving engineering problems. On the other hand, members of a community deliberate collectively about their aims and purposes in a self-determining way. Walzer (1983), a champion of “communitarianism of the left”, posits that equal membership of a political community is the precondition for practices of distributive justice citizens of such a community might engage in. My concern with a political community which unites members as equal persons, is the view that people need to engage in collective deliberation. In this regard, I find the seminal ideas of Alasdair MacIntyre apposite, in particular his efforts to establish a kind of left communitarianism which advances the practice of collective deliberation.

Before I introduce MacIntyre’s ideas on communitarianism<sup>9</sup>, I shall briefly trace his central arguments in moral and political philosophy, which began with a pre-1967 paper entitled “Notes from the Moral Wilderness” (Knight,

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<sup>9</sup> Fuller (1998: 1) makes the point that in order to understand MacIntyre’s work, one has to make sense of his “interminably long project” which involves his pioneering investigations in key themes of moral philosophy, namely, virtues, rules, practices, traditions, good, reason, truth, incommensurability, fact and value. My account of MacIntyre’s ideas which prefaced his latest book *Dependent Rational Animals: Why Human Beings Need the Virtues* does not involve a detailed exposition of how MacIntyre champions the traditions of Aristotle and Aquinas in relation to “human flourishing”, as well how his ideas are congenial to Nietzsche’s criticism of morality. Rather, I shall confine my brief account of MacIntyre’s project to his advocacy of the self attaining “the virtues” in relation to other human beings.



1998: 2). What is striking about this paper is his critique of the Enlightenment project, in particular his arguments against “the arbitrariness of individual choice” in favour of a common moral image for society on the basis of Marx’s revision of Hegel’s account of human nature (Knight, 1998: 2). MacIntyre’s approach to modern moral philosophy and political theory, which seems to be persistent throughout his recent work, actually began with the publication of his book *A Short History of Ethics* in 1967. In this book MacIntyre explicitly “rejected the belief, common in philosophical circles at the time, that moral concepts were a timeless, limited, unchanging, determinate species of concepts [that] can be examined and understood apart from their history. On the contrary, he maintained that moral concepts and beliefs have to be studied historically and contextually because moral concepts are embodied in and are partially constitutive of forms of social life” (Horton & Mendus, 1994: 2).

In his *Against the Self-Images of the Age* published in 1971 MacIntyre planted the seeds for a more radical critique of modernity. He passionately argues for a need for an “ideology” for the reason that, according to him, despite the positive contributions made by psychoanalysis, Marxism and Christianity to peoples’ self-understanding, these ideologies have contributed to the perceived ills of modernity (Horton & Mendus, 1994: 2). Moreover, over twenty years after writing “Notes from the Moral Wilderness” MacIntyre again referred to it in prefacing *After Virtue* where he revised his judgement on Christianity



and criticised Marxist morality<sup>10</sup> together with liberal individualism for embodying “the *ethos* of the distinctively modern and modernizing world, and that nothing less than a rejection of a large part of that ethos will provide us with a rationally and morally defensible standpoint from which to judge and act ...” (MacIntyre in Knight, 1998: 4). MacIntyre regards as intractable a defence of a liberal-individualist framework in which atomistic liberals aim to secure a justification for inalienable individual rights independent of “an overall theory of the human good” (MacIntyre in Mason, 1994: 226). He criticizes Nozick for advocating a framework of individual liberalism constituted by a set of rights independent of “a community whose primary bond is a shared understanding both of the good of man (woman) and of the good of that community and where individuals identify their primary interests with reference to those goods” (MacIntyre in Mason, 1994: 237).

In *After Virtue* MacIntyre, in the Aristotelian/Thomist tradition, not only extends his critique of some facets of modernity, particularly individual liberalism, but also champions the idea of the greatest good, understood as the attainment of “happiness” which, in turn, refers to “human flourishing” (Fuller, 1998: 7). “Human flourishing”, in a MacIntyrean sense, is understood as “the capacity for each particular individual to realize the full potential of their generic form ... (and) that this greatest good is also the common good and can only be achieved in the company of others” (Fuller, 1998: 8). For MacIntyre to pursue the common good “in the company of others”, involves human beings engaging in social practices, considered as the first principle of the argument

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<sup>10</sup> For MacIntyre, morality involves “how people live together, about society and therefore



of *After Virtue* (Knight, 1998: 10). Knight (1998: 10) cogently summarises MacIntyre's argument of linking the achievement of the common good to social practices:

What defines each of the numerous examples of a practice cited by MacIntyre is a particular goal or good internal to it and common to its practitioners. In pursuing this internal good, practitioners are able to achieve excellence of character, or virtue ... Practices are the schools of the virtues. Justice, courage and truthfulness are cultivated through participation in practices, as practitioners come to find in a practice something beyond themselves that may be valued for its own sake rather than as a mere means to satisfy their more immediate or selfish desires.

Certainly for MacIntyre anything that does not promote justice, courage and truthfulness in individuals (that is, goods or excellences internal to their practices) cannot be considered as social practices (Knight, 1998: 10). In elaborating upon this argument that internal goods (virtues) constitute social practices, MacIntyre in *Whose Justice? Which Rationality?* which was published in 1988, refers to a practice not just as the schools or traditions of the virtues, but also as socially embodied traditions of practical rationality, that is, "to exercise sound judgment with regard to what is the best or most perfected example of a good yet (to be) achieved" (Knight, 1998: 12). For

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history, not about hypothetically presocial individuals" (Knight, 1998: 4). Already his stance in favour of community is quite apparent.



MacIntyre to be a good human being<sup>11</sup> or to live the good life is to act rationally in society with others, which involves a good to be pursued, whether it be peace, freedom, respect, dignity, security or satisfaction. MacIntyre's term for such a form of practical rationality is "Encyclopedia" – "a belief in shared rationality, capable of progressing towards truth, whether in science or epistemology, ethics or politics" (Fuller, 1998: 15). It is precisely this MacIntyrean project of practical rationality as a means for the individual to attain the good life<sup>12</sup> in association with others that informs his most recent argument in defence of communitarianism.

In essence, MacIntyre (1999: 109) argues that individuals and others do not have to be considered as mutually exclusive beings without any relation with one another. Rather, as participants they engage in a set of social relationships where "the good of the individual is not subordinated to the good of the community nor vice versa". Before I assess the force of this communitarian argument, I first need to expound on the concept of "community".

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<sup>11</sup> Like Aristotle, MacIntyre regards human beings as essentially political in nature, where politics is considered "a teleologically ordered practice ... concerned with the proper ordering of practices within a community" (Knight, 1998: 20).

<sup>12</sup> Taylor (1989: 44) explains "in quest of the good" as follows: "(Contact with the good) ... is understood as a relation to God and may be understood in sacramental terms or in those of prayer or devotion. For those who espouse the honour ethic, the issue concerns their place in the space of fame and infamy. The aspiration is to glory, or at least to avoid shame and dishonour, which would make life unbearable and non-existence seem preferable. For those who define the good as self-mastery through reason, the aspiration is to be able to order their lives, and the unbearable threat is of being engulfed and degraded by the irresistible craving for lower things. For those moved by one of the modern forms of the affirmation of ordinary life, it is above all important to see oneself as moved by and furthering this life, in one's work for instance, and one's family. People for whom meaning is given to life by expression must see themselves as bringing their potential to expression, if not in one of the recognised artistic or intellectual media, then perhaps in the shape of their lives themselves".



Communitarians accentuate that community does not merely imply an aggregation of individuals. People constituting a community have common public ends, and not merely congruent private ends. In other words, people constitute a community with the intention of sharing goals and values with others, with individuals conceiving of themselves as “members of the group, and of their values as the values of the group” (Buchanan, 1989: 856). In contrast, an aggregation<sup>13</sup> comprises individuals who conceive of their interests as private, independent and potentially opposed (Buchanan, 1989: 857). A brief reference to current theories of community within the mainstream of contemporary philosophical liberalism reveals that the concept is the consequence and not the cause of social arrangements (Freedman, 2001: 27). Sandel and Walzer who respectively consider community as “as constitutive of the shared self-understandings of the participants” and “the expression of social networks” best explain community as the consequence of social arrangements. For Sandel, membership in a community is a constituent of individual identity: “(A) community must be constitutive of the shared understandings of the participants” (Sandel, 1982: 173). He promotes the case for a strong communal obligation, that is, “a sense of belonging, a concern for the whole, a moral bond with the community” (Sandel, 1996: 4-5). Walzer’s (1990: 10) communitarianism is an attempt to move away from the individual to “patterns of relationship, networks of power, and communities of

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<sup>13</sup> Francis Dunlop (1979: 47) also distinguishes between an “aggregation” of individuals (*Gesellschaft*) and a “community” (*Gemeinschaft*). In a *Gesellschaft* people are put together as one interest group on a voluntary basis. They are bounded by a contract which opens space for equality amongst them. He further claims that the individuals in a *Gesellschaft* are “free and autonomous” and can easily withdraw from it. This notion of *Gesellschaft* poses a problem for community since it allows the individual to be “free and autonomous” which means that his or her subjectivities can dominate the group. This view of “community” is incongruent with that of *Gemeinschaft* which accentuates the need for people to belong together.



meaning". He sums up his understanding of communitarianism as follows: "It would be a good thing ... if we could teach those (individual) selves to know themselves as social beings, the historical products of, and in part the embodiments of, liberal values" (Walzer, 1990: 15). It is this view of community, which constitutes the communitarian argument against unsituated individualism I shall now assess in more detail.

King (1974) cogently articulates a concept of community which does not merely constitute an aggregation of individuals. For King (1974: 30) when an individual joins a community, she does not simply assume the subjective views of other individuals but rather adopts points of view, which transcend both her and others' points of view. This makes sense for the reason that a community "has its own distinct identity, a more inclusive identity" which transcends individual subjectivities (King, 1974: 30). This view of community accentuates a need for "a shared identity" which considers the ideas and wants of the group as more important than those of the individual. In this regard, King (1974: 31) who draws on an early 20<sup>th</sup> century American philosopher Josiah Royce, posits that a community with "a shared identity" is one that

... represents a distinctly different 'level' of human life from the individual. It is not simply an aggregate of individuals. It includes individuals but also transcends them by incorporating them into a more inclusive whole. The individual who participates in a community finds his identity enhanced; without ceasing to be an individual, he (she)



becomes more than an individual; he (she) enters a life 'incomparably vaster' than anything he (she) has previously known.

For the reason that a community is characterised by "a life 'incomparably vaster' than anything" the individual has known, one can justifiably claim that such a notion of community binds individuals together on the basis of some shared, common good referred to by King (1974: 32) as "social transcendence". In other words, the subjectivities of individuals are not abandoned, but are only considered in relation to others' subjectivities, establishing "their allegiance to a common cause ... and to work together for a common good" (King, 1974: 31).

Moreover, Fielding's account of community also supports the idea of working towards achieving "a common good" in relation with others. In his words, "for community to become real the mode of relation characterized by freedom to be and become ourselves in and through relations of personal equality must take place within the context of certain dispositions and intentions towards other persons (in search of 'a common good')" (Fielding, 2000: 400). Thus, it emerges that community is not fundamentally about location, time, memory, or even a sense of belonging together in a group. Rather, community is a process in which people regard each other in a certain way (i.e. love, care and concern for the other) and in which they relate to each other and act together in mutuality as persons in search of "a common good". Fielding (2000: 401) articulates such an understanding of community as "the shared, mutuality of experience". It is this working towards "a common good" on the part of people



in their relation with others that provides the premise on which a MacIntyrean understanding of communitarianism is based. This brings me to a discussion of MacIntyre's project of communitarianism.

MacIntyre, in *Dependent Rational Animals: Why Human Beings Need the Virtues*, argues for a dependent relationship between the individual and the community. His book is an attempt to reconstruct the Aristotelian account of the relationship between the individual and the community. Positively, MacIntyre (1999: 107) sees the individual as embracing the pursuit of what he calls "practical reasoning".

Practical reasoning is by nature, on the generally Aristotelian view that I have been taking, reasoning together with others, generally within some determinate set of social relationships. Those relationships are initially formed and then developed as the relationships through which each of us first achieves and is then supported in the status of an independent practical reasoner. They are generally and characteristically first of all relationships of the family and household, then of schools and apprenticeships, and then of a range of practices in which adults of that particular society and culture engage.

Communitarianism - what MacIntyre refers to as practical reasoning - therefore, constitutes practices such as "reasoning together with others" achieved through people's deliberative engagement in social relationships. In other words, MacIntyre's view of practical reasoning does not consist solely in



engagement in social relationships or practices. One can engage with parents, family elders and teachers, for instance, but this might not mean that one's engagement with them takes the form of "reasoning together". For MacIntyre (1999: 105) to sustain one in this quest of "reasoning together", that is, to give to others an intelligible account of one's reasoning, one needs to show "the ability and the willingness to evaluate the reasons for action advanced to one by others, so that one makes oneself accountable for one's endorsements of the practical conclusions of others as well as for one's own conclusions". Political party members may advance their electoral manifesto based on promises of socio-economic improvement to individual voters who in turn evaluate it. Individuals can endorse the party's manifesto by recognising the latter's commitment to socio-economic betterment for the majority of citizens and may decide to vote for it. The point is that voting no longer centers around the decisions individuals make, but also their evaluation of the reasoned opinions of others, in this instance, the electoral appeal of a political party grounded in reasons for socio-economic improvement of the majority of citizens. Consequently, the action performed by an individual constitutes part of "some whole, so that by their performance the whole is brought into being" (MacIntyre, 1999: 106).

There is much more to MacIntyre's whole argument than this; but enough of it has been presented for the nature of his challenge to unsituated individualism in favour of communitarianism to be reasonably clear. On this view of personal reasoning the pursuit of individual goals do not occur independently



of the goals of others. For MacIntyre (1999: 107-108) “reasoning together with others” (collective deliberation) is at the core of practical reasoning:

So the good of each cannot be pursued without also pursuing the good of all those who participate in those relationships. For we cannot have a practically adequate understanding of our own good, of our own flourishing, apart from and independently of the flourishing of that whole set of social relationships in which we found our place.<sup>14</sup>

MacIntyre’s account of practical reasoning introduces the notion of “the good of each” for “the good of all”. In seeking the good an individual does not do so as an isolated individual but within a set of social relationships with others.

The question arises: What constitutes the notion of “good” according to which the individual and others within the community engage? In a different way, what constitutes practical reasoning which shapes the practice of “reasoning together with others”? MacIntyre (1999: 108) posits that “reasoning together with others”, that is communitarianism, can best be achieved through the acquisition and exercise of virtues. Following MacIntyre (1999: 92) “those qualities of mind and character that enable someone both to recognise the relevant goods and to use the relevant skills in achieving them are the

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<sup>14</sup> MacIntyre (1981: 178) in *After Virtue* distinguishes between external and internal goods. External goods such as power, fame and money belong to the individual and the more someone has of them the less there is for other people. Internal goods such as learning to recognise what is due to others, to listen carefully when told of our inadequacies, or to advance the art of batting which could enrich the whole cricket community, are goods for the “whole community”. For instance, cricketers do not just become excellent batsmen independently without bowlers and fielders. A good internal to excellent batting is that a batsman scores a century through brilliant stroke play in relation with fast or spin bowlers who ply their sport.



excellences, the virtues ...". In *After Virtue* MacIntyre (1981: 178, 204) offers two accounts of the virtues: Firstly, he links the achievement of the virtues to the notion of internal goods or "standards of excellence", that is, acquired human qualities (for example, justice, courage and honesty) the possession and exercise of which tend to enable people "to achieve goods which are internal to practices". Secondly, he links the virtues to that of "the good life", that is, "the virtues ... which will enable us to understand what more and what else the good life for man (woman) is". This brings me to a more detailed discussion of MacIntyre's notion of virtues as internal goods or "standards of excellence".

MacIntyre distinguishes internal (constitutive) and external goods. External goods are essentially competitive and belong exclusively to particular individuals, which may include, tenure, prestige, money and power. Internal goods constitute the "excellences" or virtues necessary to sustain practices. MacIntyre (1981: 175) in *After Virtue* holds

By a 'practice' I am going to mean any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realised in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended. Tic-tac-toe is not an example of a practice in this sense, nor is throwing a football with skill;



but the game of football is, and so is chess. Brick-laying is not a practice; architecture is. Planting turnips is not a practice; farming is. So are the enquiries of physics, chemistry and biology, and so is the work of the historian, and so are painting and music. In the ancient and medieval worlds the creation and sustaining of human communities – of households, cities, nations – is generally taken to be a practice in the sense in which I have defined it.

According to MacIntyre (1981: 175) practices contain internal, shared goods which make people produce “excellence” appropriate to their “socially established” cooperative activities such as building cities, nations, communities, civilisations, and so on. For practices to sustain the excellence of what is produced they need goods internal to their practices, that is, virtues. MacIntyre uses the example of chess-playing to illustrate his distinction between external and internal goods. For MacIntyre, on the one hand, a child could be motivated at first to play chess by giving him or her incentives such as candy. On the other hand, there are goods internal to chess which would not have been there if the child did not participate or experience the game of chess. When the child starts enjoying the game, plays fairly and intelligently (such as having the courage to make good chess moves), in a MacIntyrean sense, she has acquired the standards of excellence of chess-playing, that is, the virtues of the game which could be shared with the wider chess community. Drawing on MacIntyre’s explanation of internal and external goods, I shall later on argue that the virtues or internal goods can also include the care, conversational justice and political reasoning to sustain the



excellence and “cooperativeness necessary for working (and deliberating) on a common task”.

Before I shall attempt to give a comprehensive account of virtues or internal goods which constitute practical reasoning or communitarianism along MacIntyrean lines, I first need to say something about virtues and achieving “the good life”. MacIntyre’s good life does not solely imply that human beings engage in practices. What is required in one practice may be at odds with the requirements of another: the demands on one as a poet, for instance, may get in the way of one’s obligations to the church. Somehow, the different practices in which one engages must integrate with one’s life as a whole. In other words, the good life is to be understood as the goodness of a life seen as a whole. For MacIntyre, the good life for a human being has the form of a narrative, that is, one’s life is always embedded in the story of those communities from which one derives one’s identity, for instance, the church, the drama society and the family. In his words, “the good life for man (woman) is the life spent in seeking for the good life for man (woman)” (MacIntyre, 1981: 204). However, to sustain one in the quest of achieving the good life, one needs virtues such as courage, temperance, wisdom, judgement and integrity to enable one to withstand the challenges besetting one’s life as a whole. MacIntyre (1981: 204) poignantly notes: “the good life for man (woman) is the life spent in seeking for the good life for man (woman), and the virtues necessary for seeking are those which will enable us to understand what more and what else the good life for man (woman) is”.



Moreover, MacIntyre's account of the good life also introduces the concept of tradition. In quest of the virtues (internal goods) one does not do so as an independent individual but as a bearer of a particular social identity, as someone's child, as a congregant of the church and as a citizen of a nation. The roles one performs as a child, congregant of a church and citizen of a nation have a historical dimension, that is, behind these roles lie a tradition of practices which must be secured, sustained and challenged, if they are corrupt. In the words of MacIntyre (1981: 207) "the individual's search for his or her good is generally and characteristically conducted within a context defined by those traditions of which the individual's life is a part, and this is true both of those goods which are internal practices ...". It is this MacIntyrean understanding of the good life in relation to achieving internal goods (caring, conversational justice and political reasoning) vis-à-vis the notion of tradition which forms the basis of my argument for MacIntyrean practical reasoning along communitarian lines.

#### **2.4.1 Caring**

One of the central goods intrinsic to practical reasoning is possessing the virtue of caring. It is not enough for an individual to be affectionate towards or to be attached to others, which caring promotes. One has to be affectionate towards or attached to a child in order to care. But this does not mean that one just has to please a child even if one's actions are not in the best interest of the child. A child might want to do canoeing in smooth water of a lake and later on down a stream in canoe racing without having been educated to



maneuver the canoe backwards and sideways or to cope with winds and other inclement weather conditions. It would please the child if you allow her to paddle a canoe, which might not be in the best interest of the child's safety. If one is really to acquire the virtue of caring for others and not just being affectionate towards them, one needs to cultivate in others the capacity to reach their own justifiable conclusions to which they are to be held accountable by and to others for those conclusions – referred to by MacIntyre (1999: 83) as the ability to evaluate, modify or reject one's own practical judgments. As the child is "taught" the procedures on entering and leaving, paddling, steering and portaging (carrying) a canoe as well as about the seasonal conditions to canoeing, and how she needs to paddle skillfully such as taking difficult decisions in inclement weather, she has been initiated into a practice of evaluating, modifying and rejecting her judgments concerning handling a canoe. The child is cared for if she received good education about canoeing as well as having acquired ways to discover her own version of the sport. In turn the child will act prudently, that is, exercise practical reasoning. MacIntyre's (1999: 103) argument for caring in the family evinces this point:

Consider the example of a family at any one of a number of stages of Western history, a family in which the parents have generally done well by their children, by the best standards available to them in their particular time and place. The mother has given them excellent prenatal and natal care, supported in this by the father, aunts, uncles, and grandparents, all of whom contributed appropriately at each stage of the children's education. The father and the mother not only



generally put the children in the hands of good teachers, but also were actively supportive of those teachers. The parents, that is, through exercising their authority prudently, showed themselves to be worthy of authority. The children have thereby learned to recognize that prudent authority is an essential ingredient of what was given to them by way of care and education, so that they could become what they now are, independent practical reasoners.

To come back to the point raised about the child who received a good education about canoeing, her educators (parents or trainers) did not just impose on her their own understanding of canoeing but allowed her the freedom of choice to reflect on and to modify and sustain the practice of handling a canoe. The child has developed the capacity to make practical judgments when she encounters unforeseen possibilities in water; she would rationally make decisions that would not necessarily endanger her life and the lives of other competitors; and after every major canoeing event she would reeducate herself as to become more competitive in canoe racing. Caring then, does not merely involve cultivating in ourselves “degrees of affection” toward others but also when we encourage others to develop the capacities of evaluation and modification, that is, what others consider to be sufficiently good reasons for acting and to imagine alternative possibilities so as to be able to rationally reeducate themselves, to become practical reasoners (MacIntyre, 1999: 83).



### 2.4.2 Conversational justice

The kind of care individual practical reasoners (communitarians) practise will not only help others to make rational choices, to be imaginative and to reeducate themselves, but also to trust and rely upon those from whom they have received care. This implies that both the givers and receivers of care in the first place have to engage *justly* in conversation (deliberation) with one another. Following MacIntyre (1999: 111) “conversational justice requires among other things, first that each of us speaks with candor, not pretending or deceiving or striking attitudes, and secondly that each takes up no more time than is justified by the importance of the point that she or he has to make and the arguments necessary for making it”. I want to elucidate some touchstones of caring which I think constitute a MacIntyrean understanding of conversational justice: “candor”, “the importance of the point” and “arguments necessary for making it (the point)”.

Considering these touchstones of conversational justice, it emerges that the concept is both a view of human experience and a moral value which recommends a certain attitude and response to human engagement. On the one hand, as a moral value, conversational justice conceives of the relationship between the self and the other dialectically, that is, conversational justice is the basis for engagement based on honesty, openness, sincerity, truthfulness; moral aspects which link strongly with the notion of candor. Candor implies that conversations should not be understood as always a pleasant and willing sharing, but also as provocations, threats, and

resistances which involve being honest, open, sincere and truthful to evaluate and sometimes to abandon or to alter old ways (Fay, 1999: 233).

On the other hand, conversational justice as a view of human experience encourages people to engage their differences and to present arguments to justify “the importance of the point” in ways that explore possibilities for productive and positive learning from each other. This involves situations whereby, in the words of Fay (1996: 234),

People can learn *about* others and *from* others, thereby not only learning about them and themselves but also opening up new possibilities for themselves and other(s) in the processes of engagement.

I shall now elaborate on this notion of conversational justice as engagement whereby people not only encounter each other’s differences, but also improve possibilities for communication and deliberation through which they can produce arguments to justify their points. Two significant features, namely recruitability and respect, constitute engagement based on conversational justice.

According to Fay (1996: 237),

Recruitability refers both to the capacity to elicit another’s regard in you and your capacity to become invested in the lives of others ... (It is) an



enhanced ability to listen and respond to others; a deepened appreciation of the ways others contribute to our own self-knowledge; and an enlargement of our moral imaginations.

Enhancing our ability to “listen and respond to others” implies that people have to be willing to hear and be open to accept what others have to say. They have to interact with others who are different, and they should mutually explore and share with others alternatives as a way to develop their own and others’ understanding. Walzer (1983: 310) makes the point that in genuine democratic politics “(t)he citizens must be ready and able, when his (her) time comes, to deliberate with his (her) fellows, listen and be listened to, take responsibility for what he (she) says or does”. To be able to “listen and respond to others” in the first place implies that engagement on the part of all people should be unconditional. In fact engagement should be congruent with the notion of recruitability whereby the possibility is increased for people to become unconditionally engaged *by* others. That is, for them to deliberate on matters without any conditionality attached to their engagement. In this way, suspicion and unnecessary antagonism among different people can be removed, thus improving the credibility and legitimacy of human engagement and their decisions by fostering greater co-operation and mutual respect between and among themselves which would enhance their desire and ability to extend their mutual relationships, eager to share with others.

But unconditional engagement of all people in societal matters would not by itself ensure conversational justice. My contention is that mutual respect has



to occur among people. In seeking to achieve mutual respect, for instance, in the face of political disagreement, we need to attend to the way people hold or express positions. For example, the way in which political opponents should treat each other with regard to policy issues, even when the policy debate ends in legislation and the state takes a position favouring one side of the dispute, needs to be grounded in principles constituting mutual respect. In this regard it is worth referring to Gutman and Thompson (1990: 76) who claim the following:

Like toleration, mutual respect is a form of agreeing to disagree. But mutual respect demands more than toleration. It requires a favourable attitude, and constructive interaction with, the persons with whom one disagrees. It consists in a reciprocal positive regard of citizens who manifest the excellence of character that permits a democracy to flourish in the face of (at least temporarily) irresolvable moral conflict.

In other words, mutual respect, unlike recruitable engagement, should not merely be an unconditional acceptance of everything people say or propose – people should agree to disagree. Voters who support the dominant political party do not show respect for campaigning politicians by simply accepting everything they say; campaigning politicians do not show respect for voters merely by making electoral promises. Fay (1996: 239) makes the following point about respect as constitutive of conversational justice:



Respect demands that we hold others to the intellectual and moral standards we apply to our friends and ourselves. Excusing others from demands of intellectual rigor and honesty or moral sensitivity and wisdom on the grounds that everyone is entitled to his or her opinion no matter how ill-informed or ungrounded, or – worse – on the grounds that others need not or cannot live up to these demands, is to treat them with contempt. We honor others by challenging them when we think they are wrong, and by thoughtfully taking their (justifiable) criticisms of us. To do so is to take them seriously; to do any less is to dismiss them as unworthy of serious consideration, which is to say, to treat them with disrespect.

If voters of the dominant political party for example, prevent other political parties of the right to campaign freely, and thus prevent other voters of the freedom to exercise their choice of political party; or if campaigners of the dominant political party are unable to handle intimidation and violence on the part of their voters against other candidates and voters, their actions should not be “beyond the pale of critical judgment” (Fay, 1996: 239). Respect does also not mean that everything voters of the dominant political party do is “fine”, such as when they overtly attempt to destabilise the electoral campaigns of minority candidates. Respect means that voters should be held accountable to support and implement the issue of free and fair elections on the basis of self-reflection. In this way, respect does not simply mean acceptance of everything people do. Respect conceived as mere acceptance of everything people do or say, negates conversational justice. According to Fay (1996: 240), this

understanding of respect “enjoins us to appreciate others but not to engage them in mutual critical reflection”. Once again, Gutman and Thompson (1990: 76) aptly explain mutual respect as follows:

Mutual respect manifests a distinctively democratic kind of character – the character of individuals who are morally committed, self-reflective about their commitments, discerning of the difference between respectable and merely tolerable differences of opinion, and open to the possibility of changing their minds or modifying their positions at some time in the future if they confront unanswerable objections to their present point of view.

With reference to South African politics, I agree with Lodge when he cautions (1999: 74) against the uncritical acceptance of everything the African National Congress (ANC) as a dominant majority party does, which in his view poses a major threat to constitutional matters:

If every kind of opposition to government policy is viewed as sinister and subversive – and this did seem to be the perception reflected in Nelson Mandela’s speech at the ANC’s fiftieth conference (in 1997), in its characterisation of parliamentary opponents as ‘implacable enemies’ and of critical lobbying organizations as unpatriotic ‘instruments of foreign governments’ – then constitutional safeguards will offer limited solace for liberal democrats.



Put differently, the existence of conflicting opinions in the political process should not be seen as depravity on the part of political opponents but rather, requires “an effort to appreciate the moral force of the oppositions of people with whom we disagree” (Gutman & Thompson, 1990: 85). In essence, the principles of mutual respect implies that the forums in which we conduct our political conversation should encourage people to justify their actions with moral reasons and give others the opportunity to criticize those reasons. In the words of Gutman and Thompson (1990: 88), mutual respect

... requires citizens to strive not only for agreement on principles governing the basic structure but also for agreement on practices governing the way they deal with principled disagreements ... they can value public deliberation as a critical means of subjecting their moral commitments to critical scrutiny (and possibly change them in the future); and they can give serious consideration to opposing points of view as a manifestation of their respect for morally reasonable people.

This brings me to a discussion of political reasoning.

### **2.4.3 Political reasoning**

MacIntyre's account of practical reasoning (communitarianism) introduces the virtue of “shared rational deliberation” or “ political reasoning”. In seeking the good and exercising political reasoning each individual has to contribute “to the shared (rational) deliberations of the community in his or her own voice”

(MacIntyre, 1999: 140). It is as a political reasoner that one engages in practical reasoning; and what cultivates political reasoning is that no one in the community should be ignored and excluded from political deliberation. On this communitarian view there is nothing which can limit people from exercising their voices in communal and rational deliberation. According to the virtue of political reasoning "each member of the community is someone from whom we may learn about our common good and our own good, and who always may have lessons to teach us about those goods that we will not be able to learn elsewhere" (MacIntyre, 1999: 135). Having a political voice, in short, is a necessary and not merely an optional part of one's independent and communal well-being.

But to have a political voice within this framework of practical reasoning, external goods such as political structures, electoral and media resources (including money to sustain political structures) must make it possible for individuals first, to exercise their critical judgments in respect of shared deliberative reasoning (MacIntyre, 1999: 137); second, to have someone as a proxy to be his or her "second self", to speak for him or her (MacIntyre, 1999: 139); and third to be assured of at least minimal security for him or her and others "from external aggression and internal criminality" (MacIntyre, 1999: 132).

First, as regards the individual's exercise of critical judgment in respect of shared deliberative reasoning, MacIntyre's account of critical inquiry seems apposite here. For MacIntyre (1999: 156) critical inquiry is essentially rational



and social, that is, people are able to engage about their beliefs, conceptions and presuppositions only in and through relationships with others. This makes critical inquiry a shared public discourse as opposed to a private one. But what makes critical inquiry rational, more specifically reasoned deliberation? Taylor claims (1985: 139), like MacIntyre, that reasoned deliberation involves being engaged in clear articulation of issues and attuning oneself to the social world where possibilities may be contemplated, reflected upon and deepened. Put differently, shared rational deliberation does not only mean individuals are part of a whole whose voices should be heard, but what they articulate to others who may be interested in their perceptions and perspectives should be in a clear, logically consistent and unambiguous manner as they seek to improve their situations and contexts (Taylor, 1985: 139) (I shall elaborate on this notion of rationality in the next chapter under a discussion of deliberative democracy).

This brings me to a more central point concerning critical inquiry. MacIntyre (1999: 161) holds that "truthfulness about their (people's) shared practical experience, justice in respect of the opportunity that each participant receives to advance her or his arguments, and an openness to refutation are all prerequisites of critical inquiry". And for the reason that critical inquiry ought to constitute political reasoning whereby individuals' voices are not muted in communal action, critical inquiry has to be practised in a truthful way. Truthfulness is based on an understanding that one has to be honest, sincere and willing in one's actions - more specifically in political reasoning. People engaging in political reasoning have to be sincere, prepared and willing to



desired goal, rather than a prerequisite. In other words, the agreement that can be attained through openness, what MacIntyre (1999: 130) describes as coming to a “common mind”, ought to grow out of shared deliberative reasoning. Kymlicka (2002: 289) aptly makes the following claim:

(T)he virtue of public discourse is not just the willingness to participate in politics, or to make one’s views known. It also involves the willingness to engage in a conversation: to listen as well as to speak, to seek to understand what others say, and to respond respectfully to the views of others, so as to continue the conversation.

Moreover this notion of openness draws upon the virtues of patience and constancy that can cultivate in people the capacity for tolerance and mutual respect for “reasonable” differences of opinion. In this way, through engaging in political reasoning to achieve the “good life” the idea of critical inquiry is not impeded. In defence of achieving political reasoning, that is, critical, rational and shared, Gutman (1998: 31) claims the following:

A necessary (but of course not sufficient) condition of living well in a society where people differ in their moral convictions is effective teaching of the liberal virtue of toleration. A more distinctly democratic virtue that a good society must also teach effectively is mutual respect for reasonable differences of moral opinion. Mutual respect demands more than the attitude of live and let live; it requires willingness and ability to accord due intellectual and moral regard to reasonable points



of view that we cannot deem ourselves as correct. In the political realm, toleration is a precondition for peaceful competition and pragmatic compromise; mutual respect is a precondition for democratic (political) deliberation and moral compromise.

In essence, for people to exercise critical judgments in respect of shared deliberative reasoning means that they have to be agents of critical inquiry. In turn, critical inquiry demands that people are rational, truthful and open in their pursuit of achieving “a common mind” through political reasoning. Kymlicka (2002: 289) posits that open and rational political discourse also includes “the willingness to set forth one’s own views intelligibly and candidly as the basis for a politics of (critical) persuasion rather than manipulation and coercion”. He calls such a virtue of critical inquiry “public reasonableness” whereby citizens have to justify their public reasons as to make others understand and engage with such reasons (Kymlicka, 2000: 289). This brings me to the link MacIntyre establishes between political reasoning and the notion of proxy.

To have a voice through political reasoning does not simply mean that one has to be physically in the presence of others in order to be heard. To illustrate this point, consider the high levels of illiteracy amongst eligible voters in South Africa, particularly in rural and urban townships and squatter camps. The argument can be used that despite the fact that voters were given a secret ballot and that they had a good understanding of what general elections are about, their voices are not taken seriously as far as demands for employment, housing and education are concerned. Why not? For the simple



reason that since the country's first democratic elections in 1994, poverty, unemployment, housing shortages, crime and illiteracy have escalated particular in townships and squatter camps. A survey conducted by the Institute for Democracy in South Africa (IDASA) showed that highest on people's agenda was crime, followed by unemployment, housing shortage, the economy, poverty, education and discrimination (Koelble, 1998: 99).<sup>15</sup> The point is illiterate voters need not to hold rallies and march to local municipalities or Parliament to voice their right for better material conditions after electoral promises had been made. For MacIntyre people who are "unable to speak", like illiterate voices that might not be in a position to make their voices heard, should entrust someone as proxy<sup>16</sup>, that is, someone to be their "second self", to speak for them even in their absence. MacIntyre (1999: 139) makes the point that a proxy entrusted to care for others who are unable to speak should know those and be rooted in relationships with those whom he or she is entrusted to speak for. Thus the idea of absolute majority rule where only the dominant party decides for all is challenged since the proxies of people (illiterate voters) should know and come from townships and squatter camps. Yet, they might not be constituent members of such a party or might not even come from townships or squatter camps. But, as proxies,

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<sup>15</sup> Of course, government delivery in key areas between 1994 and 2000 was beginning to show in official statistics: 4 million people previously deprived now have access to clean running water; 1,1 million housing subsidies have been allocated and about 700 000 houses have been completed; houses are constructed at a rate of 200 000 per annum; 70 per cent of households have electricity and 1,5 million new connections have been made; 4,2 million new telephone connections have been made; over 600 new clinics have been built and free healthcare provided for pregnant women and children under six years of age; 6 800 families have been settled on farming land; 1 500 km road has been built as public works; 7 Spatial Development corridors are under way worth R 115bn; R 3bn has been allocated for poverty relief; and R 100 bn per annum is allocated to expenditure on social services (Christiansen Cawthra, Helman-Smith & Moloi, 2001: 80).

<sup>16</sup> Unlike the current system of local government where representatives of political parties are proportionally elected, proxies should come from constituencies they actually represent.



they have to contribute to the shared deliberation of their community's concerns, raising his or her voice as the community's voice. In this regard, Lodge (1999: 8) makes the point that since the 1994 election and in a situation in which thousands of most effective organisers have found employment in legislatures and government, these people have considerably distanced themselves from the communities they used to mobilise so successfully; an indication of how far removed people have become alienated from their communities, which of course troubles the notion of proxy. In essence, political reasoning by proxy provides a significant constraint for absolute majoritarianism (I shall address this issue in detail in later chapters) in the sense that it prohibits an exclusionary position towards any individual including those from minority groups.

Third, there is another aspect which needs to be in place in order for political voices to be exercised in communal and rational deliberation: political and legal sovereignty. MacIntyre (1999: 132) correctly posits that any democratic state should assert political and legal sovereignty over its subjects:

For no state can justify that assertion unless it is able to provide at least minimal security for its subjects from external aggression and internal criminality. And the provision of such security generally requires that there be police officers, firefighters, and soldiers prepared, if need arise – and it does arise remarkably often – to give up their lives in the course of their duties.



Despite emphasising the importance of the modern state to provide minimal security for its citizens from external aggression and internal criminality, MacIntyre hastens to caution that the need to ensure the good of public security must not be allowed to obscure the modern-state's quest to achieve the shared (common) goods of the community. The question now is: is such a MacIntyrean view sound? MacIntyre (1999: 132) delineates that the good of public security is "a good without which none of us in our various local communities could achieve our common goods". I agree. However, he states that the good of public security must not be allowed to obscure the common goods of a community. Consider for instance, that the South African community's shared public goods in a MacIntyrean sense constitute the need to cultivate tolerance, reconciliation, nation building and other democratic goods among all of its citizens. Yet, without combating escalating levels of crime in the form of hijackings, burglaries, rape, child abuse, gangsterism, vandalism, drug trafficking, corruption, embezzlement of public funds and domestic violence, the public goods of tolerance, reconciliation and nation building would be difficult to achieve for the reason that shared public goods cannot be separated from the material conditions in which those goods need to be cultivated. How tolerant do we expect people to remain or how do we expect them to embark upon nation building if they constantly encounter violent crimes and aggression perpetrated against them, and if public safety can no longer be secured? The point is that the good of public security is not inseparable from achieving the common good of a peace-loving and harmonious South African community. In a different way, a potential skeptic of MacIntyrean communitarianism might not find his line of argument defensible,



for the reason that the good of public security should itself be a shared (common) good of the community. In this regard Van Tonder (1996: 28) quite correctly claims "if factors like rising poverty, unemployment, socio-economic decay, violence and crime can be arrested and then decreased by positive economic growth ... only then can the frail base of tolerance, cooperation, trust and acceptance be expanded and made dynamic, replacing the focus on differences and contradictions". This view is echoed by Bohman (1996: 238) in his explanation of deliberative democracy in the following manner:

The success of a deliberative (and communitarian) form of democracy depends on creating social conditions and institutional arrangements that foster the public use of reason. Deliberation is public to the extent that these (secured public) arrangements permit free and open dialogue among citizens, who make informed and reasoned judgments about ways to resolve problematic situations.

However, such a departure from MacIntyre's position on the separation of the good of public security from the common public good should not detract from the fact that political and legal sovereignty is a necessary condition for the exercise of individuals' political voices, that is their "political reasoning".

In summary, virtues or internal goods which constitute practical reasoning or communitarianism include the exercise of caring, conversational justice and political reasoning to sustain the excellence and development of: first, people's capacities to act reasonably and to imagine alternative possibilities



so as to be able to rationally reeducate themselves; second, honesty, openness, sincerity, truthfulness, that is, moral aspects which link strongly with the notion of candor, as well as engagement through recruitability and respect whereby people not only encounter each other's differences, but also improve possibilities for communication through which they can produce arguments to justify their points<sup>17</sup>; and third, for all people to exercise their voices in communal (shared) and rational deliberation (I address this issue in further detail in the next chapter under a discussion of deliberative democracy with specific reference to the seminal ideas of Habermas). In essence, the exercise of virtues or internal goods necessary to frame "communitarianism of the left" can lead to an understanding where "the achievement of one's individual good is understood to be inseparable from the achievement of the common good" (MacIntyre, 1999: 113).

## 2.5 SUMMARY

In this chapter I analysed and explored various strands of liberalism which include, utilitarianism, liberal equality and communitarianism. I showed how each variant of liberalism invokes the notion of community, and simultaneously challenges the idea of atomism or self-centred individualism. I focused primarily on "communitarianism of the left", in particular its emphasis on collective deliberation on the part of members of a community, which to my mind, is best illustrated in MacIntyre's plea for practical reasoning or "reasoning (deliberating) together with others". I showed that caring,

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<sup>17</sup> Benhabib (1996: 87) notes that practical rationality is the possibility of free public



conversational justice and political reasoning constitute the notion of MacIntyrean communitarianism. In turn, communitarianism, as “reasoning together with others” cannot be seen in isolation from securing the legitimate interests of most people in political decision-making. In a democracy like South Africa, people should have rights and opportunities, which can make the idea of “reasoning together with others” an attainable political discourse – what Bohman (1996: 54) refers to as that joint political activity “when a plurality of agents who act together try to convince one another (through deliberation) to coordinate their activities in particular ways”. It is my contention that securing people’s rights and opportunities depend on a particular understanding of democracy which considers collective deliberation on the part of members of a community as central to the practice of political discourse.

In the next chapter I shall explore the tradition of South African liberalism particularly in relation to freedom, equality and the rule of law. In this way, I would be able to establish links between the liberal tradition in South Africa and the intellectual roots of liberal strands as espoused in this chapter.



## **CHAPTER 3**

### **THE TRADITION OF LIBERALISM IN SOUTH AFRICA**

#### **3.1 INTRODUCTION**

In this chapter I shall examine essential moments in the history and theory of the liberal tradition in South Africa, in particular how liberal thinkers view liberalism coterminous with community and democracy. Thereafter, I shall analyse some of the gaps within such a snapshot of the liberal tradition with the view to construct a credible notion of liberalism. In doing so, I shall subject weaknesses which I have identified in the liberal tradition in South Africa, to scrutiny in terms of deliberative democracy in order to come to a deepened and more justifiable account of democracy (including the eradication of socio-economic injustice) in a divided South African society.

#### **3.2 ANALYSING LIBERAL PERSPECTIVES OF COMMUNITY AND DEMOCRACY**

Liberalism has never been a dominant force in the actual practice of South African politics. Yet, the liberal tradition in South Africa has a long and distinguished history which acquired an organised and political voice in the Liberal and Progressive Federal Parties since the 1950s. By the late 1980s, the Democratic Party (DP) succeeded the Progressive Federal Party and had



grown to become the official opposition within the current democratically elected Parliament. Van Zyl Slabbert (1987: 403), then leader of the PFP, claims that the party was not the Liberal or even a liberal party, although it inherited some aspects of South African political liberalism. For him, its history has been far too diverse and complicated simply to depict it as a pure liberal party. Yet, it was nevertheless committed to the creation of a liberal democracy in South Africa, and as such has been the closest example of a conventional liberal political party. Broadly speaking, throughout its long history South African liberalism commonly rejected racial discrimination<sup>18</sup>, preferred reform over revolution and federalism over centralisation, considered market-driven economies as superior over command economies, and reviled Marxist-Leninism (Johnson, 1998: 377). It is instances in this tradition of South African liberalism that I wish to explore in relation to its views on the notions of community and democracy.

### **3.2.1 Liberalism and freedom**

South African liberalism has been centrally concerned with freedom (liberty) of individuals and communities, particularly those communities shattered by industrialisation, urbanisation and racial discrimination through apartheid (Butler, Elphick & Welsh, 1987: 4-5). South African liberals have rarely endorsed an atomistic view of society and vigorously defended individuals against unjust laws and abusive administration (Butler, Elphick & Welsh, 1987: 4). Instances in the history of Cape liberalism prior to Union in 1910

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<sup>18</sup> Anyone who challenged racism in South Africa amongst the liberals, were usually labeled



attest to this purported non-atomistic view of society on the part of liberals: Between 1860 and 1880 the Cape government wished to promote Black entrepreneurial activity; White Cape merchants together with political administrators, missionaries, lawyers, editors and the government's opposition of the day advocated the rights of Black peasants; and the pro-Boer and pro-Black positions of liberals like Merriman and Schreiner in the 19<sup>th</sup> century (Davenport, 1987: 27-30). These instances in the tradition of Cape liberalism confirm liberalism's non-attachment to the rights of exclusive groups of people at the expense of other people's rights. Instead, as stated by Davenport (1987: 30), "Cape liberalism ... sought to protect the members of all groups in what it regarded as a common society". This situation confirms liberalism's non-atomistic view of society and that a sense of community involved collaborating with and protecting others. Another example in point is when the PFP under the leadership of Van Zyl Slabbert explored "selling itself" in the Coloured and Indian Chambers of the then Tri-cameral Parliament. The PFP met with determined rejection by most extra-parliamentary organisations which opposed the implementation of the 1983 Constitution (Van Zyl Slabbert, 1987: 403). Simkins (1986: 5) reports that a considerable number of White liberals have worked at culturally strategic parts of the interface between White and Black society as missionaries, educators and philanthropists:

Prior to the 1950s, and especially in the reserves, a great deal of the development work which was done in education, health, and even production among black people, was done by missionary and

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as "pro-Native", or pejoratively, with "kaffer-boetie" (by mainstream adherents of the national



philanthropic organisations ... For a liberal, these organisations were and are more than merely places where bossy whites could find scope for indulgence of the desire to dominate. They are places where some of the most interesting and precious components of our political philosophical tradition were formulated.

Instances of liberal sentiments before the Union of 1910 were dealt a severe blow with the incorporation of large numbers of Africans into the Colony which sparked off White fears that unless they changed the electoral rules they would lose political control of the Cape legislature. This resulted in the Cape Parliament systematically restricting Black representation by limiting their access to the franchise and removing Black voters from the common roll by challenging their registration (Davenport, 1987: 32). This anti-liberal stance in Cape politics resulted in a surge towards racial discrimination (Davenport, 1987: 32). Despite this upswing in racial discrimination, between 1910 and 1948, South African liberals fought a rearguard action focusing on questions of welfare rather than on those of power, on influencing the dominant political actors rather than on superseding them (Butler, 1987: 82). Thus, although instances in Cape liberal history certainly suggest that liberalism's main concern was to procure both the freedom of the individual in relation to other people, that is, the community, paradoxically, it has also been concerned with procuring the rights of minorities, in the instance of Cape liberalism, White minorities in order to secure their political hegemony. The point I am making is that it seems as if the liberal tradition in South Africa had a concern with the

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Party), South Africa's version of "nigger lover" (Butler, 1987: 81).



procurement of minority rights for the reason that an overwhelming majority might exclude and marginalise their political voices. In this regard Butler, Elphick and Welsh (1987: 7) posit that in the past many liberals in South Africa “have shrunk from full democracy out of fear that the majority would subvert liberal values”. In other words, liberals advocated a notion of democracy which invoked non-majoritarian rule. To explain this liberal commitment towards non-majoritarian rule, it is worth referring to the ideas of Hoernlě (a liberal) who argued that White aversion to assimilation would procure a sense of liberalism in South Africa. In other words, Hoernlě (1939) contended that total separation between Whites and Blacks should be the liberal’s choice, and to have chosen total assimilation was to condemn Whites to domination by Blacks. His fear towards domination of Whites by Blacks included the following elements:

A fear of being swamped, of being forced to live in an environment dominated by alien (Black) customs and symbols ... A fear of the loss of being treated deferentially and of having to defer to others formerly considered inferior ... A fear of being exposed to greater competition for income, position and power ... A fear of expropriation of assets ... A fear of loss of liberty (Hoernlě in Simkins, 1986: 27).

Another example in case is Adam’s (1983) argument for a rejection of total assimilation of Whites and Blacks, as well as the liberal view that if political power were to be wrested away from Whites, South African society would become inhospitable to the exercise of liberal principles:



A realistic discussion of constitutional 'solutions' in South Africa rests on several crucial assumptions: (1) Any fundamental change can be achieved with the cooperation of, and not against, the dominant section in the ruling group. This follows from the second assumption that (2) neither side can defeat the other, i.e. impose its solution on the opponent; and (3) even if a unilateral victory of one (Black) antagonist were possible, the price would be too high to make it worthwhile ... It follows from the above that neither the white unilateral designs or neo-apartheid, nor the black preference for one person one vote in a unitary state, have a chance of relatively peaceful realisation (Adam, 1983: 140).

Moreover, liberals' concern with absolute (simple) majoritarianism is also to be found in the ideas of Welsh and Van Zyl Slabbert (1979: 113):

- As simple majoritarianism has in no deeply divided society had a democratic outcome, the principle of power sharing among all groups must be institutionalised;
- The incentives of the political system must, as far as possible, provide incentives for coalescent rather than adversary politics, that is to say, the zero-sum style of politics must be avoided;
- The operation of the political system, must as far as possible, deny or minimise the pay-off to racial or ethnic appeals, and conversely, it must provide rewards to coalescent, linkage, or simply interracial movements;



- Without rejecting or diminishing the informal safeguards, such as a justiciable bill of rights, the fundamental safeguards for groups and individuals must as far as possible be woven into the operation of the political system itself; and
- As far as possible, potentially disruptive issues must be settled by inter-party negotiations that avoid submitting them to open competitive politics.

In essence, on the one hand it seems as if liberalism's main concern was to secure the freedom of all people or groups, thus repudiating the idea that liberalism advocated an atomistic-liberal view of community. On the other hand, liberalism's intent to secure minority rights (especially those of Whites) clearly indicates its lack of support for democracy governed by absolute majoritarianism ("winner-takes-all" rule). Instead, liberals in part identified with the "middle ground" – a liberal position which emphasised compromise, accommodation, peace-making and reconciliation (Butler, Elphick & Welsh, 1987: 7)<sup>19</sup>.

### **3.2.2 Liberalism and equality**

Inherent in South African liberalism's emphasis on freedom was the procurement of equality. Liberals insisted on equal opportunities for all members of society, in particular Blacks and other exploited groups. However, this notion of liberal equality was not extended to equality in people's final

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<sup>19</sup> Liberals are often regarded as altruists or paternalist humanitarians who worked for the betterment of the daily lives of Africans the Coloured poor (Butler, 1987: 97). This altruistic tradition is rooted in the close ties established between South African liberalism and activist Christianity (Butler, Elphick & Welsh, 1987: 5).



attainments and possessions, since this would have minimised White privilege (Butler, Elphick & Welsh, 1987: 10). Between 1910 and 1948, among the largely disenfranchised majority Africans, Coloureds and Indians, there were great limitations on education, property ownership and occupational mobility.<sup>20</sup> A small number of privileged Whites, together with a small minority of Africans and Coloureds (liberals) during this period, did emerge as “paternalist humanitarians” working for the betterment of the daily lives of these people, but failed in their appeal to the dominant White enfranchised for establishing a more inclusive and egalitarian society (Butler, 1987: 82). Further proof of such an egalitarian liberal position is to be found in the examples of Margaret Ballinger and Edgar Brookes (Africans’ two White parliamentary representatives in the 1940s) who not only called for the abolition of the pass laws and reconsideration of the whole Native policy, but also pleaded for the full acceptance of Africans as South African citizens (Lewsen, 1987: 103-104). Another White parliamentary representative of Africans, Donald Molteno (in the 1940s) persistently called for the extension of democratic rights to African and the complete defeat of the policy of racial segregation (Lewsen, 1987: 106).

I want to come back to the claim made earlier that although liberals insisted on equal opportunities for all, they did not encourage equality in the possessions of all Africans, Coloureds, Indians and Whites. According to Simkins (1987: 225) liberals do not consider the equalisation of material outcomes in terms of people’s utilities (possessions) as relevant to the debate

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<sup>20</sup> The overwhelming proportion of African men and women were labourers and domestic



about equality in the South African context. This is so for the reason that people's freedom, particularly those of wealthy Whites, might be constrained in the sense of decreasing their income and wealth. Instead, Simkins (1987: 233) posits that liberals favoured affirmative action strategies to address the inequalities of opportunity of those economically worst off. In his words, "while liberals are not vulgar materialists, they have no grounds for refusing to attend to economic inequality" (Simkins, 1987: 233). Certainly the concept of community espoused by liberals has been shaped by non-racial principles. The history of the Liberal Party (1953-1968) shows that it strongly opposed job reservation, the Whites-only make-up of official trade unions, and the inadequate education and training available to Black apprentices during the 1950s (Irvine, 1987: 126). The apartheid government's crackdown on the Liberal Party in the 1960s through banning of its members, warnings and other forms of intimidation and harassment suggest that liberalism in the 1960s embraced a non-racial sense of community which was intolerable to apartheid's segregationist ideology. In fact the Liberal Party strongly moved towards the idea of an anti-communist social democracy (Irvine, 1987: 118) which could further equalise opportunities for disfavoured Africans, Coloured and Indians. This liberal type of anti-communist social democracy clearly indicates liberals' concern with equalising opportunities in terms of affirmative action procedures, but not complete equality according to people's utilities – an idea that seems to support liberals' concern with retaining White privilege.

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servants, while Coloureds and Indians were in an intermediate position but still far from equal



### 3.2.3 Liberalism and the rule of law

The rule of law<sup>21</sup> and the advancement of human rights have always ranked among the main priorities of liberals in South Africa (Dugard, 1987: 271). The credit liberals may take for their concern for human rights in South Africa is best illustrated through the voice of Helen Suzman in Parliament, the crusade of the women's activist organisation, the Black Sash, the vigilance of newspapers such as the *Rand Daily Mail* and *Cape Times*, and the firm stance of human rights lawyers and scholars towards highlighting injustices in order to encourage the judiciary to adopt a more watchful role, to initiate a debate over a Bill of Rights, and to transform Afrikaner attitudes toward law and justice (Dugard, 1987: 279).

Moreover, during the 1950s and 1960s the Liberal Party's approach to the rule of law supported a commitment to extend political rights to all South Africans (Irvine, 1987: 117). Its primary emphasis was on the protection and extension of civil and political rights, in effect an emphasis on procedural rather than substantive rights. In other words, liberals were more concerned with a nonracial suffrage, a common electoral roll in order to secure the political rights of all voters and the legal protection of basic civil rights through the ordinary courts, rather than with the content of the rights themselves. Certainly for liberals the entire purpose of the rule of law became to resist incursions

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with Whites (Butler, 1987: 82).

<sup>21</sup> The liberal commitment to the rule of law is best explained by the following pronouncement by the International Commission of Jurists in Lagos in 1961: "The rule of law is a dynamic concept which should be employed to safeguard and advance the will of the people and the political rights of the individual and to establish social, economic, educational and cultural



into the rights of speech, assembly, association, and the like. Yet, the liberals' concern to expand the rule of law to embrace socio-economic justice in the fullest sense could never really materialise. This is so, for the reason that Afrikaner nationalism<sup>22</sup> was not only hostile to liberalism, but also the fact that the pursuit of the rule of law on the part of liberals was never allied in a realistic way which could have involved a settlement of the broader economic and political issues that divided South Africans (Mathews, 1987: 287). During the oppression under National Party rule, liberals advocated the application of the rule of law which further entrenched the unequal status of a divided South African society. In the words of Mathews (1987: 286), "In advocating these constitutional measures, liberals were in practice untrue to the narrow doctrine of the rule of law to which they gave intellectual adherence, since they sought to preserve the economic and property rights of the privileged by entrenched restraints of law". Procedurally Africans had a right to education which could legally be defended in a court of law. However, the fact that educational opportunities were unequal under apartheid rule (and which could not be defended in a court of law) confirms their lack of possessing substantive rights. Similarly, Coloureds and Indians had a procedural right to own property. But the fact that they could only acquire property in certain areas suggests that they did not possess substantive rights to do so<sup>23</sup>. In essence, it

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conditions under which the individual may achieve his dignity and realize his legitimate aspirations in all countries, whether dependent or independent (Mathews, 1987: 282).

<sup>22</sup> Nationalism is an ideology, an action-oriented system of ideas, according to which the highest political loyalty is owed to the nation (Degenaar, 1987: 236).

<sup>23</sup> Somewhat paradoxically a secondary value of liberalism is rooted in the conviction that private ownership will tend to foster the liberal values of freedom, equality, prosperity and justice (Butler, Elphick & Welsh, 1987: 7). Yet, disadvantaged property owners under apartheid rule were in fact not free, equal and justly treated. Moreover, although many liberals did not regard capitalism as the core of liberalism, some argue that the distressing features of apartheid society – racism, human exploitation, inequality and poverty – are repeatedly attributed to capitalism (Butler, Elphick & Welsh, 1987: 9).



seems that for liberals the rule of law was a means to preserve the privileges of the dominant classes and that the associated idea of procedural rights as against substantive rights was designed to protect Whites<sup>24</sup> against the full force of democracy under Black majority rule (Butler, Elphick & Welsh, 1987: 12).

In essence, my cursory analysis of essential moments in the liberal tradition in South Africa indicates that three distinct features of liberal thought always seemed to have influenced liberalism's agenda in South Africa: (1) Liberalism's non-atomistic view of society which involves procuring the freedom of the individual in relation to others, together with a non-majoritarian notion of democracy in order to safeguard minority rights; (2) the equalisation of opportunities through affirmative action measures as opposed to providing complete equality according to people's utilities in order to safeguard White privilege; and (3) the provision of procedural rights as opposed to substantive rights for disadvantaged groups within the parameters of the rule of law. Despite these deeply rooted liberal influences in South African society, no liberal party has ever governed the country. Before I explore some of the gaps within a liberal notion of community and democracy in South Africa as espoused above, I shall firstly conclude this section with a brief discussion of the country's final Constitution, considered by many liberals as an "ironic victory" since liberalism never penetrated the ranks of political power (Johnson & Welsh, 1998: 21).

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<sup>24</sup> Degenaar (1987) claims that liberalism has always been concerned with the right of (White) minorities. Even the word "liberalism" affirms the rights of individuals, of minorities, and of institutions against the power of the state; it asserts freedom of speech and assembly; it



Constitutive features of the Constitution of the Republic of South Africa of 1996 embody a transition from authoritarian rule towards the deepening of democracy. The Constitution is the product of the negotiation process which took place among 26 political parties with the Convention for a Democratic South Africa (Codesa) in 1991 and the Kempton Park negotiations through 1993 (Van Tonder, 1996: 12). The constitutive features which link strongly with principles of liberal democracy are embedded in the following sections which broadly make up the Constitution: constitutional sovereignty, a set of immutable constitutional principles and basic values, fundamental rights, a constitutional court, an electoral system of proportional presentation, a government of national unity, a constitutional assembly, 11 official languages, a new flag and two anthems, nine provinces with legislative and executive functions, and a system providing for comprehensive local government (Van Tonder, 1996: 14).

I agree with arguments that the Constitution contrasts sharply with classical liberal documents, whose chief purpose was to secure individual freedom, rights and property from governmental imposition. Liberals claim that the Constitution enshrines core liberal principles: the protection of human rights and the rule of law (Welsh, 1998: 21). This kind of constitutional liberalism is corroborated by the fact that it is possible, liberals would argue, to read it as an embodiment of "the idea that the power of community can (and must) be deployed to achieve goals consistent with freedom, (and) that collective power

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affirms the rule of law, the insistence that no governmental official is above the law which is



can be tapped to create social circumstances that will nurture and encourage people's capacity for self-determination" (Klare, 1998: 153). Thus one finds that the Constitution draws a close connection between individual political and collective socio-economic rights. In this regard the Preamble of the Constitution announces that the purpose of democratic transformation is to establish a society based on *social*, as well as political justice. Section 1 of the Constitution envisages equality across the existential space of the social world. Dugard (1998: 23) posits that constitutionally the liberal ideal has triumphed in South Africa since the Constitution of 1996 reflect hallmarks of liberal democracy: a representative government, political accountability, proportional representation, an independent judiciary, a Bill of Rights, guaranteed press freedom and free speech, and a non-prescriptive approach towards economic policy. However, there are concerns expressed by liberals that the Constitution is not entirely liberal and therefore not a triumph for liberalism. Jeffery (1998: 42) argues that the constitutional guarantees of individual freedom have been constrained by the "hate speech" and emergency provisions. Particularly disturbing for liberals is the fact that the guaranteed rights have been turned into a code of obligations for individuals and the private sector which could have disturbing implications in enforcing conformity to new policies with strong ideological overtones (Jeffery, 1998: 42). Also worrying for liberals is the extension of socio-economic rights to include the rights of access to housing, health care, and so on, which they argue will increase the power of the state while undermining privatisation (Jeffery, 1998: 43). It is not my intention to discuss the liberal or illiberal

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ultimately created and sustained by the people's will (Butler, Elphick & Welsh, 1987: 8).



tendencies of the Constitution since this requires substantial constitutional and political analyses beyond the scope of this dissertation. Rather, I shall explore some of the gaps within the liberal tradition identified earlier with reference to notions of community and democracy with the view to construct a credible notion of liberalism. Thereafter, I shall subject constitutive features of liberalism, namely, non-majoritarianism to procure minority rights, equalising opportunities through affirmative action and providing procedural rights to the disadvantaged, to deliberative democratic scrutiny in order to suggest ways to deepen democracy in a divided South African society.

### **3.3 GAPS WITHIN THE LIBERAL ARGUMENT**

In the previous section, I have identified three distinct weaknesses which can be associated with liberalism in South Africa: the need for non-majoritarianism to procure minority freedoms; equalising opportunities through affirmative action measures and providing procedural rights to the disadvantaged. I shall address these weaknesses in detail in order to point to several gaps within liberal thought in South Africa.

#### **3.3.1 Absolute majoritarianism vs non-majoritarianism**

A weakness of liberalism in South Africa is best illustrated in its concern to procure the freedom of the individual. Liberalism does not fully invoke the notion of community for the reason that it considers an exclusive (absolute) majority (within the same community of South Africans) to be dismissive of



minority political voices. In other words, liberalism seems to advocate that a Black majority would dominate a White minority. This brings me to a discussion of some of the inadequacies associated with such a view of majoritarianism. Of course, liberalism seems to have a justifiable argument against strict (absolute) majoritarianism if it were to be accepted that the African National Congress (ANC), notwithstanding its alliance with the South African Communist party (SACP) and the Congress of South African Trade Unions (COSATU), is likely to remain a majority political party for the immediate future. Liberals claim that many of electoral voters constituting an ethnic majority are not necessarily convinced that other political parties could enact socio-economic justice, political emancipation and nation building, which makes it rather unlikely that the ANC is going to be forced to coalesce with other smaller and competing parties in order to gain an electoral advantage. This would mean that a commitment to power sharing with minority parties depends largely on the ANC. By implication, minority groups seem to have few guarantees apart from the general ones guaranteed by the Constitution to individual citizens. What follows from this, is that the possibility seemingly exists for the ANC to exclude the "voices" of minority parties<sup>25</sup> as liberals suggest. It is in this regard that Koelble (1998: 14, *my italics*) claims that majoritarianism "is not a particularly emancipatory form of democracy and negates the claims made by the ANC of liberation for *all* population groups ...

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<sup>25</sup> Results of the 1999 National Assembly elections indicate that the ANC secured 66,4 per cent of the vote, some 4 per cent more than in the 1994 elections, and added 14 to its previous 252 seats in the National Assembly. The DP experienced a major boost in the election, securing 9,6 per cent of the votes in 1999 as compared to 1,7 per cent in the 1994 elections. Other minority parties secured the following percentages: ACDP (1,4), Afrikaner Eenheidsbeweging (0,3), AZAPO (0,2), Federal Alliance (0,5), Freedom Front (0,8), IFP (8,6), Minority Front (0,3), NNP (6,9), PAC (0,7), United Christian Democratic Party (0,8) and UDM (3,4) (Christiansen Cawthra, Helman-Smith & Moloi, 2001: 6).



(causing the party to face) serious obstacles in building a new sense of nation and community ... ". Now if South Africa's liberal democracy can exist under conditions of exclusion which entails the primacy of the voices of the majority over marginalised minorities, such a form of democracy according to liberals can seriously infringe upon the personal freedom of minorities to pursue their own conceptions of the common good.<sup>26</sup> In this way majoritarianism might restrict individuals from minority constituencies to "enjoy the maximum degree of non-interference (negative liberty) compatible with the minimum demands of social life in order optimally to pursue their conceptions of the good" (Hudson, 2000: 94). When minorities are excluded or marginalised they are prevented from realising their potential as "autonomous (moral) beings" (Berlin, 1969: 136). Thus it seems as if strict majoritarianism undermines the positive and negative bases of genuine liberal democracy – a claim that finds expression in liberal thought. Of course, the problem with an ANC majority is that within our ethnically divided society where a section of the community has dominance in numbers (particularly Blacks), there always exists the concern of members of minority constituencies that they might be marginalised. But this is where I want to take issue with liberalism. In the first place, besides not all ANC members being Black and that Whites, Coloureds or Indians are also members of ANC constituencies or support the ANC for that matter, liberalism assumes that absolute majoritarianism will always hold sway in South African politics and that the voices of the numerically inferior minority political parties will be marginalised and excluded. Certainly the argument seems justifiable

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<sup>26</sup> I use the "common good" as that which inspires the establishment of a moral, social and political system for enhancing the well-being of people in a community. These goods include: the desire for peace, freedom, respect, dignity, security and satisfaction to which all individuals in a community have access (Gyekye, 1997: 46).



which suggests that demands on the part of majority Blacks most adversely affected by apartheid legislation are overwhelming, in the sense that they still see the ANC as a government with a distinctly liberatory agenda. But then, the perpetual liberatory concerns of many Blacks should not necessarily pose a concern for other groups among White, Coloured and Indian who contend that socio-economic justice (for example, affirmative action, land restitution and employment opportunities) advantage Blacks. Why not? Liberals consider the Constitution to be an "ironic victory" for them, which in itself does not announce strict majoritarianism. This is so, for the reason that the parliamentary distribution of power is balanced between the National Assembly where all legislation is passed, and the Council of Provinces, which has limited veto rights over legislation and which directly affect the provinces (Koelble, 1998: 59). This indicates a "weak form of federalism" pervasive in South Africa's liberal democracy. South Africa's federalism is further shaped by the practice of proportional representation whereby each party is allocated the percentage of parliamentary seats (400 seats in total) proportional to the percentage of vote received by each party (Koelble, 1998: 66). Moreover, that the South African liberal democratic system is not strictly a "qualified majoritarian system" is demonstrated by the Constitution's concern to rely on several "watchdog" institutions which, along with the courts, monitor the actions of the state and government. These include: the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Human Rights Commission, the Commission for Gender Equality, the Electoral Commission, the Public Protector, the Auditor General and the Independent Broadcasting Authority (Koelble, 1998: 68). Thus, what



this discussion illustrates is that the South African liberal democratic system vis-à-vis the freedom of individuals in association with a sense of community “tempers majoritarianism with PR (proportional representation), and/or federalism, and/or reserved positions for minorities” (Koelble, 1998: 69). Therefore, for some liberals to assume that majority rule poses a threat to minority freedoms is to ignore the fact that majoritarianism can also be non-exclusive, which in turn can be restrained constitutionally (This issue will again be addressed in chapter 4).

Moreover, liberalism’s argument for non-majoritarianism in order to procure the freedoms of individuals is in itself not plausible. Why not? Certainly in liberal scholarly circles curtailing the political power of the majority is related to a concern that this deeply divided South African society with its complex ethnic, language, racial, socio-economic and class divisions will not be able to contain and manage inherent conflict in a liberal democracy with majority rule (Van Tonder, 1996: 27). Therefore liberals purport that non-majoritarianism seems to be a more feasible option. But how is this at all possible in any form of decision making? Surely discussions and deliberations cannot occur endlessly without reaching some agreement as to what course of action needs to be taken or what decision ought to be implemented? Before any decision is accepted by all parties involved in deliberation there has to be some procedure involved which can avoid a possible stalemate. If this were not to be the case, then governments might as well cease to exist since very few decisions will ever be made or for that matter implemented. It is for this reason that I agree with Van Niekerk (1999: 115) who recognises the



importance and value of majority rule in democratic decision making processes. However, he correctly cautions that the situation in a pluralistic society such as South Africa does provide serious limitations to the "unqualified" use of majority vote. The thrust of his argument is that if the majority consistently thwarts the needs and aspirations of the minority, the situation in pluralistic societies could result in increasing conflict which could pose a major threat to the legitimacy of the majority ruling party (Van Niekerk, 1999: 115). In a Popperian sense he posits that democracy ought not to be identified with simple majority rule, but much rather with the entrenchment of institutions<sup>27</sup> or "standardised life forms" (for example, courts, Parliament, schools, regular elections, and so on) that enable or facilitate criticism and the abandonment of unworkable policies in favour of better ones.

"Standardised life forms" such as to institutionally organise public opinion through quality discussion and debate among citizens are more important to a liberal democracy than simple majority rule. This sort of "habitual action" or interchange between institutions and their publics is important to deliberative democracy for the reason that it not only permits innovation and social change; it makes the institutions that organise deliberation more responsive

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<sup>27</sup> Rossouw and Van Niekerk (1990) explain institutions as follows: "Social and cultural institutions are established, generally accepted and standardised customs, habitual patterns of action and stable relationship structures that are prescribed by society and in compliance with which we order our daily lives. We can also call such institutions standardised life forms and practices. Each institution entails a body of obligations and expectations that are normally acknowledged spontaneously, and to which we try our utmost to comply. Examples of such social and cultural institutions include the monogamous marriage and all its accompanying practices; various interpersonal codes of conduct; the ways in which we work together, conduct business or share the product of our concerted labour (or neglect to do so); the way in which authority is regulated, disputes settled and right administered; the method for the gathering and distribution of knowledge, and according to which education takes place; in short, all the social traditions to which we daily conform. Such social and cultural institutions



and effective (Bohman, 1996: 239). In fact Van Niekerk (1996) contends that political decision makers should be less concerned with what is good for all citizens, but should rather concentrate their efforts on formulating creative policy options which could be publicly evaluated through elections, referendums and open critical debate – all those institutions that need to exist in a society that would facilitate deliberation. Majority rule in institutions where deliberation occurs – courts, universities, the stock market, political parties, and so on – should only be resorted to in the event of irreconcilable differences amongst people (Van Niekerk, 1999: 115) – a view I support and shall argue for in chapter 4. The point I am making is that the challenges of deliberative democracy (which I discuss in detail in chapter 4) can only be met when institutions are organised in ways which enable citizens to deliberate together and make public use of their reason in new ways. In the words of Bohman (1996: 238) “(t)he success of a deliberative form of democracy depends on creating social conditions and institutional arrangements that foster the public use of reason”.

Van Niekerk is not alone in advocating a view which curtails the power of “unqualified” majority rule. Popper (1945: 124-125, 265-266) also expresses his concern with “unqualified” majoritarianism with discussions on “the paradox of democracy” and “the paradox of tolerance”. On the one hand, with reference to “the paradox of democracy”, he does not see democracy as merely the election of governments by the majority of the ruled. He questions the moral basis of an “unqualified” majority vote for a “democratic” Fascist or

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reflect the dominant life values and accordingly the accepted way of life of the particular



Communist government which curtails the freedom of the individual and institutions, and encourages people to actively resist such a government.<sup>28</sup> On the other hand, with reference to “the paradox of tolerance”, he argues that in some circumstances a tolerant minority or majority must be prepared to restrain the advocates of intolerance (minority or majority) through rational argumentation. However, if those who oppose tolerance denounce rational argumentation, they should be resisted “by force” (Popper, 1945: 265). The upshot of Popper’s paradoxes of democracy and tolerance is that an indefensible form of majority rule, that is, absolute majoritarianism or a situation in which a majority decides to end freedom, is not an option and should unquestionably be challenged and undermined; a position I shall argue for in this dissertation. In essence, on the one hand, absolute majoritarianism could have debilitating implications for the sovereignty of South Africa’s multi-party democratic system. But then, on the other hand, non-majoritarianism does not seem to be realistic at all since decision making in politics cannot afford to result in stalemates. Consequently, my contention is that the notion of majority rule needs to be looked at in a manner consistent with a notion of deliberative democracy I shall explore in the next chapter. It is such a notion of deliberative democracy, which I shall argue for, that breaks with both absolute majoritarianism and the liberal argument for non-majoritarianism. Put differently, majoritarianism does not have to be a procedure which undermines and marginalises minority freedoms. But then, one requires a

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community or cultural group”.

<sup>28</sup> Magee (1973: 79) claims that Popper has no moral basis for active resistance against a Nazi regime for which the majority has voted. Such a government can be removed by violence or “tyranny” if all attempts have failed to replace it by “reason”.



notion of majoritarianism which could transcend the unrealistic non-majoritarian concerns of liberalism – an issue I shall explore in chapter 4.

### **3.3.2 Equalisation of opportunities equals better equality**

The liberal argument advocates the need for equalising opportunities, particularly those of the disadvantaged, instead of making a case for complete equality among people. I agree with this position although not for similar reasons proffered by some liberals. In this section, unlike liberals, I shall firstly argue that the equalisation of opportunities can actually lead to better equality if it is not simply considered as a means to afford procedural rights as opposed to substantive rights to the majority of the previously disadvantaged people – a view I contend could enhance the notions of community and democracy in South Africa. Secondly, I shall briefly assess whether the liberal position on affirmative action is the only answer to achieve enhanced standards of welfare for all South African citizens. To begin with, some liberals do have a case when they argue for non-complete equality among people. What makes this argument defensible? One response to this question is found in Taylor's (1985) idea of distributive justice. Before I explore how distributive justice can frame the idea of non-complete equality among people, like Taylor, I again refer to Rawls' (1993) celebrated theory of justice as fairness, which formulates some conditions for the use of the concept. The two principles as expounded upon in chapter 2 which constitute Rawls' theory of justice can be summarised in the claim that justice as fairness is firstly conceived as a framework of deliberation which can lead to sufficient convergence of points of



view necessary to achieve effective and fair social cooperation among equally conscientious persons (Rawls, 1993: 368). Secondly, this framework of deliberation guarantees the freedom and equality of citizens as persons capable of being fully cooperating members of a democratic society (Rawls, 1993: 369).

The appeal of Rawls' justice as fairness thesis is that it purports to disclose conditions of securing "reasoning together with others", that is, deliberation, cooperation and compromise – referred to by Rawls as "sufficient convergence of judgment". Deliberation can be sustained insofar as citizens learn to mutually respect one another and cooperate in a spirit of fairness and willingness to compromise. A condition of justice as fairness, what Taylor refers to as "separate human beings ... collaborating together", distinguishes it from other conditions which impose limits on people cooperating together, for instance, when individuals function independently from one another or when majority political groups unjustly marginalise minorities. In a Rawlsian sense, justice as fairness is premised on conditions whereby (a) citizens are engaged in cooperation as free and equal persons, and (b) citizens deliberate in order to achieve "free agreements fairly arrived at and fully honored" (Rawls, 1993: 265). Most of these conditions of justice which presuppose that people cooperate, deliberate and compromise in a society can be engendered by the idea of deliberative democracy I develop in detail in the next chapter.

However, whether people should in fact engage in public deliberation as "equals" is a matter challenged by the idea of deliberative democracy. In the



previous chapter I have argued that the notion of deliberative democracy affords people an equal opportunity (which is in tune with Rawls' second condition of justice) to engage in public deliberation, to willingly and rationally justify their political arguments by subjecting it to scrutiny by others and to reach convergent understandings, and to share in the inter-subjective deliberations within their socio-political contexts – conditions necessary to ensure that justice as fairness prevails. Yet, this does not mean that people necessarily embark upon public deliberation as complete equals. Of course both illiterate and literate voters are equally entitled to cast their votes or to articulate their political arguments justifiably through public deliberation. But this would be tantamount to sham equality. It is like saying that there is equality in entitlement when each person has the right to articulate good political arguments, even though illiterate citizens would in all probability be unable to exercise such a right to which they are entitled (South African citizens are equally entitled to own property or to gain a university qualification, but due to financial constraints most are unable to). The sort of point I am making is that people might be afforded an equal opportunity to engage in public deliberation or might be equally entitled to do so, but this does not necessarily mean that they would actually be doing it on the basis of complete equals. It is for this reason that I concur with the liberal position of non-complete equality. People in society do have different levels of educatedness and political arguments articulated by some would be better than or even override those of others which makes egalitarian public deliberation difficult, if not impossible, to pursue.



What follows from the above is that it would be difficult to conceive of justice on the grounds that people deliberate, cooperate and compromise as complete equals. It is here that the idea of deliberative democracy breaks with Rawls' first condition of justice, which accentuates the cooperation of persons as "equals". Deliberative democracy frames an understanding of justice on the basis that people have a political voice in order (a) to exercise their critical political judgments in respect of shared deliberative reasoning, and (b) to have someone as a proxy to be his or her "second self", to speak for him or her. To have someone as a proxy entrusted to care for others who are unable to speak overrides the condition of justice that persons should deliberate in each other's presence as complete equals. A proxy in the first place represents the political voices of people who cannot (and do not have to) function as complete equals in public deliberation. I shall now focus my attention on such an understanding of justice (a view I presume liberals would argue for), which obliterates the chances of people deliberating as complete equals.

Taylor (1985: 303) identifies two meanings of justice, which do not consider persons as complete equals in society. His view of distributive justice recognises: first, the issue of "differentials" which advocates "allowable differences between wages or incomes received for different kinds of work"; second, the issue of "equalization policies ... which attempt to redistribute income or economic prosperity, or life opportunities; either by transfer payments, or by special programmes to develop certain regions, or to allow certain disfavoured groups to catch up in one way or another (e.g., in education opportunity)". Both constitutive meanings of distributive justice



invoke a notion of equality which departs from the idea that people publicly deliberate as complete equals. On the one hand, the differential idea considers equality of income (remuneration) as unjust since "it would dry up the stream of outstanding contributions" (Taylor, 1985: 306). Certainly in South Africa equality of income would be wrong for the reason that citizens (engineers, scientists, political philosophers, and so on) who have acquired higher intellectual skills should justifiably earn more than others (say, income tax clerks or debt collectors) on the basis that higher capacities are considered to be key to the country's economic, social, cultural and political stability. In this sense certain individuals seem to merit an "allowable" favourable position in society than others. Put differently, justice does not mean that a society should be one of "completely equal shares" (Taylor, 1985: 313). Complete equality of income would also mean that people do not differ in the contributions they make to societal development. It is in this regard that I agree with Taylor (1985: 306) when he posits "that highly talented people ought to be paid more than the ordinary, that professions requiring high skill and training should be more highly remunerated, and in general that complete equality of income, or distribution according to need, would be wrong".

On the other hand, providing equal opportunities for "disfavoured" people to improve their conditions in life, whether social, economic, political or educational, involves giving appropriate consideration to distributive justice. In South Africa, the majority of the population has been disadvantaged by the previous apartheid policies. By implication, and in tune with the "equalization policies" idea, measures need to be taken which can ensure redress and a



more equitable distribution of resources "to help poorer regions" (Taylor, 1985: 315). What follows from this is that (a) the differential idea can ensure a degree of justice between individuals on the basis of "allowable differences" in income, and (b) the "equalization policies" idea can establish some degree of justice between different (that is, favoured and "disfavoured") communities, as well as within those communities. By implication, distributive justice is attuned to the idea of deliberative democracy, which emphasises that a person fulfills the role of "proxy" as opposed to all citizens engaging in public deliberation as complete equals. In this regard, to use Taylor's (1985: 311) words, public deliberation that makes provision for "allowable differences" whereby citizens do not have to participate as complete equals, as well as equal opportunities for particularly "disfavoured" groups are to be considered as "much more equal" – an idea implicit in liberal thought, although with the aim to procure White privilege. In contrast to this liberal stance, I shall address later on how deliberative democracy can enhance the equalisation of opportunities idea without being concerned about only procuring White privilege in South Africa.

The question arises: Is affirmative action – as suggested by liberals like Simkins (1986) – really the only way to equalise opportunities particularly for the majority disadvantaged? Statistics documenting South Africa's inequalities with respect to unemployment and income distribution are often quoted to justify affirmative action. In 1994 unemployment as a percentage of the labour force was estimated at 32,6 per cent by the team of economists who wrote the government's Macro-economic Strategy and, if broken down by race gives an even more alarming result: African unemployment rate for 1994 reached 41



per cent compared to rates of 6,4 percent, 23 per cent and 17 per cent for Whites, Coloureds and Indians respectively (with African women being worst off with an unemployment rate of 50 per cent); and 1995 figures show that the poorest 20 per cent of South Africans received only 3 per cent of national income while 63 per cent went to the richest 20 per cent (Jafta, 1998: 322-323). While it is obvious that these socio-economic conditions are unacceptable, it is less obvious that affirmative action is the only answer to eradicate them. Affirmative action based on race and gender attributes can be credited with being able to eliminate past economic inefficiencies such as inefficient resource allocation, labour market distortions, depressed domestic aggregate demand deriving from inequitable distribution of income (resulting in lower economic growth), higher cost structures and poor international competitiveness (Department of Labour in Jafta, 1998: 323). At the firm level it is claimed that affirmative action will result in the following: a better understanding of and respect for different cultures and values; increased loyalty and commitment towards company goals; enhanced racial sensitivity, mutual respect and trust leading to better teamwork; less stress on all employees by nurturing their full potential; eradication of discrimination; improved industrial relations to increase productivity; improved company image; improved and harmonious interpersonal relations and focus on performance (Eskom in Jafta, 1998: 323). Yet, after more than twenty to thirty years of affirmative action measures in various countries around the world, including Canada, the United States, India and Malaysia, Sri Lanka, Zimbabwe and Namibia, indicators of success (or lack thereof) in the areas of employment, education, income and wealth distribution, as well as improving



general social conditions, can be attributed to considerable costs outweighing realised benefits (Jafta, 1998: 327).<sup>29</sup> Likewise, despite affirmative action's noble intentions, such policies have generally undesirable side effects: (1) the emphasis of race-based affirmative action measures on race leads to the reinforcement of negative stereotypes, racial tension, and a stigmatisation which thwarts the efforts of members of the preferred (now designated) groups to pursue their goals on merit and hard work rather than preferential treatment; (2) the claim that affirmative action programmes encourage a culture of entitlement which undermines initiative, self-confidence, and self-reliance, and the fact the beneficiaries of racial preferences may always have to prove their worth more than others because of lingering suspicions of undue advantage; and (3) racial polarisation resulting from affirmative action policies that insist on using race as a means of achieving racial harmony (Jafta, 1998: 330-331). Thus, it needs to be asked whether considerable resources with high costs invested in affirmative action measures (bearing in mind undesirable side effects) actually achieved desired results and whether such resources could not have been put to better use. My contention is that affirmative action (as some South African liberals argue) is necessary but should not be considered as the most important measure to redress socio-economic imbalances created in the past. It is here that I find the idea of deliberative democracy pertinent to ensuring that all South Africans, in particularly the majority disadvantaged – those with least access to

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<sup>29</sup> High Costs include the following: direct costs derive from the expansion in the bureaucracy in order to create the institutional machinery to implement affirmative action measures; indirect costs constitute real costs in the sense that delays in hiring and recruiting are caused by time-consuming affirmative action regulations, for example, the private sector and educational institutions; opportunity costs which allocate human and financial resources away



employment, food, security and productive assets – become better off. Now that I have shown that affirmative action efforts are not entirely sufficient to redress the socio-economic imbalances in South Africa, I shall address later on how deliberative democracy with its emphasis on building capacity through co-operation can ensure benefit to all citizens (minorities and majorities).

### **3.3.3 Procedural rights vs substantive rights**

Earlier I have identified liberalism's concern with the procedural rights of the disadvantaged which are dependent exclusively on the political processes through which they are secured and not on the substantive (non-procedural) content of the rights themselves. My contention is that liberalism's failure to reconcile a substantive, non-procedural procurement of rights with a straightforward procedural conception of rights not only undermines the rights of the disadvantaged, but also further entrenches discrimination and socio-economic inequality. My exploration into the question of rights (substantive and procedural) espoused by liberals is confined to those of political rights as a form of basic (human) rights. Basic rights are supposed to answer the question of how any person ought to be treated and what kinds of actions can be legally enforced by the state to ensure that a person is treated in a "morally proper way" (Plant, 1991: 254). On the one hand, basic or human rights (first order rights) primarily relate to civil and political rights (my focus) such as the right to life, the right of citizens to have their dignity respected, and protected, the right to freedom and security, the right to freedom of conscience, religion,

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from areas of highest return which reduces possible productivity gains; and social costs



thought, belief and opinion, the right to freedom of expression, the right to freedom of association, the right to make political choices, the right to freedom of movement (The Constitution, 1996: 6-8). On the other hand, basic rights also encompass social and economic claims (second order rights) such as the right to fair labour practices, the right to property, the right to have access to adequate housing, the right to have access to health care services, the right to a basic education, and the right of citizens to use the language and to participate in the cultural life of their choice (The Constitution, 1996: 8-11). Different from basic (human) rights are legal rights which refer to those rights a person has and can exercise in relation to the legal rules or law under which a person lives as a citizen (Plant, 1991: 254). Legal rights include the right to administrative action that is lawful, the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court, and the right to a fair trial (The Constitution, 1996: 13). My focus is not so much on the distinction between different kinds of rights, but rather how liberalism's exclusive emphasis to procure procedural rights as opposed to substantive rights for the disadvantaged entrenches discrimination, marginalisation and socio-economic inequality.

Illiterate adults living in rural squatter camps, for example, might possess procedural rights to free, fair and regular elections, since literacy is procedurally not necessary for elections to be held in a society where illiterate adults live; and for that matter, still as an instance of the right to free, fair and regular elections, illiterate citizens do not have to bother to develop their

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associated with enforced race- and gender-based affirmative action (Jafta, 1998: 327-329).



intellectual capacities within the area of political understanding. However, for an illiterate person to possess procedural rights to free, fair and regular elections does not necessarily mean that actually exercising these rights would improve their life conditions. If one recognises that the right to free, fair and regular elections is one way through which one can make informed and rational political choices, then some minimal degree of capacity to make such choices requires that one substantively assist illiterate persons to develop the ability to think and act for themselves. In other words, illiterate persons' right to free, fair and regular elections can be enabled by assisting them to understand the political setting in which they live, and to make them see that they could do something about it. The point is, the rights of illiterates would only be substantive if conditions exist that could enhance the possibility for the occurrence of informed and rational political practices. Illiterate adults in rural and urban squatter camps who lack the capacity to make informed and rational political choices cannot be left on their own to procedurally cast their vote. If the freedom to vote is important for its effect on a society's dignity, then anything else that promotes people's dignity – such as providing support to illiterate adults so as to make informed choices – is also important. Hence, it is inconceivable that every citizen should just possess the procedural right to free, fair and regular elections if he or she is not assisted to develop an intellectual inclination in order to exercise such a political right in an autonomously rational way, that is to say, in a substantive way.

The question arises: How could one prevent such a procedural view of political rights? Deliberative democracy (as I shall argue for in chapter 4)



invites most citizens to be attuned with the political “order of things”, and with other citizens for the common good of it. This not only involves citizens contributing, if they so wish, to public deliberations on what constitutes a good political life but also implies that citizens in a Rawlsian sense share in the coercive political power that they exercise over one another by establishing conditions for free, fair and regular elections to flourish. This is different from saying that every citizen has the procedural right to free, fair and regular elections. Rather, most citizens need to be attuned with the order of good political processes which involve the assistance of illiterate citizens whose capacity for self-determination has not progressed far, conditions<sup>30</sup> that could lead to the exercise of a rational (autonomous) and substantive political right on the part of most citizens to free, fair and regular elections.

Earlier, I pointed out that it seems that for liberals the rule of law was a means to preserve the privileges of the dominant classes and that the associated idea of procedural rights as against substantive rights was designed to protect the interests of a White minority – an idea which further entrenched socio-economic injustice towards the majority of people in South Africa. For the vast majority of South Africa’s citizenry, democracy encompasses liberation and the achievement of socio-economic justice after decades of apartheid legislation. For the majority of citizens, a substantive demand for improving material aspects through a redistribution of economic resources, access to education, health care services, housing, electricity, water, food, shelter and clothing, as well as providing employment opportunities, is high on the

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<sup>30</sup> Citizens should at least have been taught the procedures of how to complete a ballot form



agenda. Koelble (1998: 24) posits that the majority of South Africans maintain that the country must adopt a social democracy with certain redistributory elements such as a limited welfare state governing housing, education, social security, and, to some extent, employment if democratic practices are to be solidified.

Yet, despite the above substantive demands of South Africa's vast majority, "global forces impinge upon South Africa's economic strategy and therefore its politics of transformation" (Koelble, 1998: 10). The emergence of a global market-driven economy and the hegemony of liberalism meant that governments would no longer play a substantive role in making sure that the price of travel, basic commodities, health, education, as well as utilities such as electricity and water, remain within certain bounds. The market has become the new regulator, which means that costs and profits of individual airlines, hospitals, telephone companies, electricity and water are left to the private companies to set, frequently, at considerable financial pain to the individual consumer (Said, 2000: 9). The ANC government is now facing the same constraints placed upon them by the very same global corporate sector that assisted it in bringing an end to apartheid (Koelble, 1998: 19). But, for the vast majority of South Africans a redistribution of resources, major socio-economic reforms and development are necessary to stabilise the country's newly found democracy. This implies that the demands of the majority of citizens for socio-economic justice in South Africa, seems to be at variance with the "logic of globalisation". In other words, global economic conditions

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and to cast a ballot. Similarly it is the responsibility of the political parties to justify their



can prevent individual voters among the majority of South Africans from being able to effectively exercise substantive rights vis-à-vis their procedural rights to socio-economic reform. In essence, a liberal democracy as understood and practised in South Africa lends itself to socio-economic injustice towards the majority of people. Such an understanding and practice of democracy establishes conditions unpropitious to the maximisation of the substantive rights of individual citizens. Now if substantive rights cannot be guaranteed by South Africa's formal liberal democracy, I contend that a different form of democracy is required that can cause all citizens to fulfill their potential. This can only be achieved if both substantive and procedural rights of citizens are guaranteed – a situation in turn, liberalism seemingly finds difficult to address. It is for this reason that I shall, in the next chapter, use the idea of deliberative democracy which can transcend the substantive-procedural dichotomy of political rights procurement seemingly advanced by liberalism.

### **3.4 SUMMARY**

In this chapter I have brought into question three issues: (1) whether the liberal idea of non-majoritarianism is an option in South African politics, and whether majority rule would necessarily undermine the position of minorities (Whites, Coloureds and Indians); (2) that the equalisation of opportunities idea propounded by liberals cannot strictly be applied in relation to affirmative action measures and with the intension to preserve White privilege; and (3) that the liberal emphasis on procuring procedural rights for the majority

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political decisions and opinions to citizens (illiterate or not) before they decide to vote.



disadvantaged independent from achieving substantive rights seems to be highly problematic. For now, my next move is to explore, analyse and reflect on how the idea of deliberative democracy can construct a credible notion of liberalism in South Africa.



## **CHAPTER 4**

### **DELIBERATIVE DEMOCRACY**

#### **4.1 INTRODUCTION**

In the previous chapters I have shown how liberalism can assume various faces in relation to its views on community and to a lesser extent democracy. I now want to show how deliberative democracy seems to be an appropriate discourse to ensure that a political community remains loyal to the value of collective deliberation on the part of its members – a claim supported by “communitarians of the left”.

Dahl's (in Lijphart, 1999: 48) proposed eight criteria of democracy still command widespread support: (1) the right to vote, (2) the right to be elected, (3) the right of political leaders to compete for support and votes, (4) elections that are free and fair, (5) freedom of association, (6) freedom of expression, (7) alternative sources of information, and (8) institutions for making public policies depend on votes and others expressions of preference. Gutman (1996: 340) also notes the following: “... democracies, are characterized by guarantees of free political speech, press, association, and equal suffrage for all adults, the rights of all adults above a certain age to run for political office, the rule of law and frequent, competitive elections that are procedurally fair”. Moreover, according to Dahl (2000: 38), an ideal concept of democracy implies “a complex body of enforceable rights and opportunities: to participate



in electing representatives; to freedom of expression, inquiry, discussion, and deliberation in the widest sense; to form associations with others for inquiry and political action; rights and opportunities to citizenship; and more". Likewise for Akkerman (2001: 73), democracy involves actual participation in political life through consultation, negotiation and/or deliberation among representatives of government, civil society and citizens. In a different way, for people to actually participate in political life by exercising their rights and acting upon the opportunities guaranteed to them, constitute criteria of democracy. In this regard, Walzer (1983: 311) states the following:

Democratic politics ... is a standing invitation to act in public and know oneself a citizen, capable of choosing destinations and accepting risks for oneself and others, and capable, too, of patrolling the distributive boundaries and sustaining a just society.

In this chapter, I shall explore a concept of deliberative democracy that can help to bring to light (1) conditions that are favourable for the advancement of what Dahl refers to as public "deliberation in the widest sense" with reference to three major statements on deliberative democracy – Habermas' rational, consensus-oriented discourse, Rawls' public reason and Benhabib's discursive democracy. Thereafter, I shall move on to the central question as to what (2) general principle constitutes deliberative democracy. Followed by this, I shall argue as to why the general principle of deliberative democracy, namely rationality, is a (3) necessary condition to engender political discourse in South Africa which does not advance a preference for absolute majority



political decision-making. Finally, I shall use constitutive features of deliberative democracy to (4) try and close some of the gaps associated with the liberal tradition in South Africa.

## **4.2 DEMOCRACY AND PUBLIC DELIBERATION**

According to Gutman (1996: 341), "Democracy, Winston Churchill noted, is the worst form of government except for all the others that have been tried so far". Despite having been described by Churchill as "the worst form of government", democracy has survived because there is a sphere for debates and a set of rules (meanings) that people follow even if they do not benefit from them (Torres, 1998: 425). This notion of democracy accentuates three interrelated aspects central to an understanding of democracy: democracy as a system, democracy as a sphere for debates and democracy as a set of meanings. The first two descriptions of democracy, that is, democracy as a system and democracy as a sphere for debates, can be linked to two broad conceptions of democracy. Firstly, democracy as a representative system of political decision-making and, secondly, democracy as a sphere for social and political life in which people enjoy equal opportunities and are engaged in self-development, self-fulfillment and self-determination (Carr & Hartnett, 1996: 40).<sup>31</sup> In this regard, a representative democracy maximises citizens' opportunities for self-determination, hence, "they must live in association with others ... (which) necessarily requires that they must sometimes obey

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<sup>31</sup> Van Niekerk (1999: 113) who draws on the ideas of Raphael (1981) also supports this notion of democracy as a form of social life ("n algemene sosiale ideaal of waarde") which manifests in phenomena such as education systems and management structures and is different from state or governmental forms of democracy.



collective decisions that are binding on all members of the association" (Dahl, 1989: 89).

Representative democracy basically means that collective deliberations that concern the whole of the community are taken not directly by its members, but by people elected for this purpose (Bobbio, 1987: 40). Schumpeter (1940: 269) defines democracy as a representative form of government whereby decision-making is restricted to elected representatives, electors having voted without participating any further. Democracy as a sphere for social and political life is constituted by values of positive liberty (freedom of self-development) and political equality (Carr & Hartnett, 1996: 41).

On the one hand, democracy is seen as a representative system of government.<sup>32</sup> In this regard Macpherson (1966: 36) descriptively identifies three models of a democratic representative system of political decision-making:

1. Western liberal democracy which was brought into being to serve the need of the competitive market society – a product of successfully developing capitalist market societies. Liberal representative democracy created by capitalism (with its capacity to appropriate wealth) relocates power and domination from the state to civil society, to private property and the

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<sup>32</sup> Dahl (1996) notes that even restricting oneself to modern democratic systems, since 1993 at least thirty more countries have attained democratic political systems, adding to the twenty-one that were defined as having reached that 'somewhat arbitrary threshold' by 1950. Furthermore, there are also instances of non-democratic regimes replacing democratic governments fifty-two times between 1900 and 1985.



compulsions of the market (Wood, 1994: 5). It is a kind of liberal democracy that accentuates the predominance of individual rights over collective rights, power of the people over any other regulatory institution and equal rights for all citizens. Individual (negative) liberty or the right to private property is to be secured by the state against interference (Pateman, 1979: 24).

2. Non-liberal Communist democracy, whereby a class state was created by the proletarian revolution. It had the job of holding down the old ruling class while transforming the whole society in such a way that there would be no more basis for exploitative classes and no more need for a class state, thus paving the way for a fully human society.
3. Non-liberal, non-Communist democracy in Third World States, which rejects the competitive ethos of the market society and sees no need for the competitive system of political parties. It sees the possibility of a classless society and state (Macpherson, 1966: 35-36).

On the other hand, democracy is described as a sphere of social relationships; social democracy undermines class distinctions and advocates equality of opportunity for all citizens (Birch, 1993: 46). This notion of social democracy can be extended to that which postulates radical equality in class, racial, ethnic and gender interactions. Social democracy is primarily aimed at welfare-oriented reforms within a market-related capitalist society (Gould, 1988: 10). For Pateman (1979: 27) social democracy emphasises



participation on the grounds of equality and liberty; that is, people have the right to control their own lives, and to become competent at self-management and self-governance. She articulates this kind of democracy as a direct or participatory form of democracy whereby people directly participate in economic, political and social life.

My emphasis is on democracy as a concept that is constituted by meanings in which all or most people in a society “has the opportunity *jointly* to play an essential if not always very formative role in the determination of legislation and policy” (Christiano, 1990: 151, my italics). Walker (1998: 12) identifies four meanings of democracy according to their positions on representation and participation in political discourse: democratic elitism, democratic egalitarianism, left anarchism, and demarchism. For purposes of this dissertation, I shall briefly analyse democratic elitism, democratic egalitarianism and demarchism, emphasising how each does not satisfy the criterion of public deliberation. Thereafter, I shall make an argument for deliberative democracy as it unfolds in the ideas of Habermas, Rawls and Benhabib.

#### **4.2.1 Democratic elitism**

Schumpeter’s (1940: 269) seminal ideas on democratic elitism explain democracy as a form of representative government, which restricts political decision-making to elected representatives and thus excludes electoral voters from any further political participation. In his words, democracy refers to “that



institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter, 1940: 269). Such an elitist understanding of democracy restricts political participation on the part of electoral voters to voting and invests political power in the hands of representative leaders. It may be argued that many people do not want to participate in political activity as long as an elected elite adequately represents their political interests. But if the interests of the masses are not well served, then such an elitist form of democracy could be damaging for political life since those who are led would not have the opportunity to participate (other than voting) in decision-making processes as to ensure that their political interests are promoted more effectively. In a different way, democratic elitism does not leave much scope for citizens to provide well-considered opinions on policy issues and to publicly deliberate among themselves and representatives of government, which can lead to improving the quality of political decision-making.

#### **4.2.2 Democratic egalitarianism**

Democratic egalitarianism advocates an understanding of democracy as a form of social/political participation, which undermines class distinctions and promotes equality of opportunity for all citizens (Birch, 1993: 46). This notion of democracy can be extended to that which postulates radical equality in class, racial, ethnic and gender interactions. Democratic egalitarianism is primarily aimed at welfare-oriented reforms within a market-related capitalist society (Gould 1988: 10). For Pateman (1979: 27) democratic egalitarianism



emphasises participation on the grounds of equality and liberty; that is, people have the right to control their own lives, and to become competent at self-management and self-governance. She articulates this kind of democracy as a direct or participatory form of democracy whereby people directly participate in economic, political and social life. The point about democratic egalitarianism is that representative political decision-makers are not assumed to be "epistemically superior to the mass of citizens" (Walker, 1998: 16). Citizens need to participate in political decision-making processes "to enlighten the elected leaders about the interests of their constituents and other members of the polity" (Walker, 1998: 16). In others words, egalitarians endeavour to make representative political decision-makers accountable to their constituencies so as to ensure that the rights of citizens are satisfied and opportunities for participation maximised.

However, do possessing rights and opportunities on the part of citizens to participate in political activity necessarily secure public deliberation? That clearly is not the same. In South Africa, for instance, the illiteracy rate in some communities is as high as 60 percent, thus making it difficult for these citizens to understand what their rights and responsibilities are under the Constitution (Ramphela, 2001: 4). Ramphela posits that the Constitution effectively disenfranchises such citizens, particularly rural women and the young unemployed, since it is "inaccessible to them as a tool for understanding and asserting their (political) rights" (Ramphela, 2001: 4). She argues that these illiterate masses are not in a position to make informed choices in exercising their citizenship and are left at the mercy of local and national demagogues



who take it upon themselves to interpret what citizenship entails in the young democracy (Ramphela, 2001: 5). The point is that the right and opportunity to participate in political life does not, by itself, guarantee greater participation, and hence, effective public deliberation on the part of all legitimate interest groups in society.<sup>33</sup>

#### 4.2.3 Demarchism

Walker (1998: 21), expounding on the ideas of Burnheim, explains demarchism as a form of representative democracy which abolishes political elections through a process of statistical democracy. In a demarchist society, the representative centralised state is replaced by a variety of functionally decentralized autonomous and specialised agencies “each performing one specific function, and coordinated by negotiation among themselves or by quasi-judicial arbitration ... (with) each agency ... controlled by a group of trustees politically representative of all people with a legitimate interest in the running of the body, each interest *statistically represented* to the degree that it is affected by the body’s decisions”. Statistical representation is considered to deal with the issue of electoral corruption on the basis that political decision-makers of “functionally specialised autonomous agencies” are nominated as representatives of the people concerned with limited terms of office (Burnheim in Walker, 1998: 22-23). At face value demarchism seems to favour a form of democracy, which necessitates that individuals and groups be able to deliberate on and influence decisions affecting their legitimate material

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<sup>33</sup> Gutman notes (1996: 346) that “participatory democracy not only takes too many meetings



interests, without having to rely on elected representatives in parliamentary democracies who cannot always ensure that legitimate interests of people will be represented (Walker, 1998: 21). In South Africa, it can be conceived that the African National Congress (ANC)-Congress of South African Trade Unions (COSATU)-South African Communist Party (SACP) alliance manipulates blocks of votes into concentrations of political power for their own aggrandizement, with the effect of disempowering minorities whose interests are actually affected by policies influenced by the alliance; a situation, which does not seem to favour the notion of inclusivity in public deliberation.

However, my concern is more with the empirical conditions accentuated by Burnheim in order for a demarchy to exist. Burnheim (in Walker, 1998: 24) acknowledges that empirical conditions for a demarchist community include, "a well-educated population that is reasonably democratic and tolerant in its social attitudes ... ample productive technology, a willingness to participate in matters that interest one and to leave alone those matters that do not, and a desire to avoid rigidity and concentration of power ... conditions (that) are reasonably secure in the 'advanced' countries". Considering that prior to 1994 "black South Africans ... were not only denied the rights of citizenship, but also the kind of education that would prepare them to become morally autonomous agents" (Ramphela, 2001: 3), it follows from this that demarchism does not favour the South African community. In fact, Ramphela (2001: 3) claims that people from former tribal chiefdoms "often do not understand what it means to be a citizen of a true democracy". In this way, the

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but also disrespects the people who would, quite reasonably, rather be represented than



precondition that people should be "well-educated" and "reasonably democratic" in order for a democracy to exist in South Africa makes it politically foolhardy for the country to consider moving towards such a form of democracy. For citizens to be "well-educated" and "reasonably democratic" cannot be a prerequisite for a South African community, but rather, that an education for democracy should be institutionally organised and nurtured on the basis of a politics of public deliberation. Put differently, demarchism does not seem to be a sufficient condition to engender a tenable form of democracy in South Africa. For this reason I shall argue for a concept of deliberative democracy which in my view can maximise the political participation of most, if not all South Africans, as well as securing formal representation (in the form of governmental structures and processes) of their legitimate material interests.

#### **4.2.4 Deliberative democracy**

In this section I shall make a few preliminary remarks about deliberative democracy before exploring the concept in more theoretical detail vis-à-vis major statements of Habermas, Rawls and Benhabib. Deliberative democracy, a term that is currently much in vogue, simply refers to "a conception of democratic government that secures a central place for reasoned discussion (rational deliberation) in political life" (Cooke, 2000: 947). For Gutman and Thompson (1996: 1) a deliberative democratic theory offers "a conception of democracy that secures a central place for moral discussion in political life". They argue that the promise of a deliberative democratic

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represent themselves".



theory lies in a concern for “finding terms of cooperation that each citizen can accept” for the reason that contemporary societies are driven by deep conflict and moral disagreement (Gutman & Thompson, 1996: 26). Benhabib (1996: 68) explains democracy as “a model for organizing the collective and public exercise of power in the major institutions of a society on the basis of the principle that decisions affecting the well-being of a collectivity can be viewed as the outcome of a procedure of free and reasoned deliberation among individuals considered as moral and political equals”. Bohman, another contemporary defender of deliberative democracy, posits that democracy in some form implies public deliberation, that is, “(t)he deliberation of citizens is necessary if decisions are not to be merely imposed upon them ... consent, is after all, the mean feature of democracy” (Bohman, 1996: 4). In other words, political decision-making is legitimate insofar as policies are produced in “a process of public discussion and debate in which citizens and their representatives, going beyond mere self-interest and limited points of view, reflect on the general interest or on their common good”.

Other defenders of deliberation such as Walzer (1983: 304) posit that “(deliberative) democracy puts a premium on speech, persuasion, rhetorical skill ... and the citizen who makes the most persuasive argument – that is, the argument that actually persuades the largest number of citizens – gets his (her) way”. Benhabib (1996: 69) pertinently posits that “the deliberative model of democracy is a necessary condition for attaining legitimacy and rationality with regard to collective decision making processes in a polity, that the institutions of this polity are so arranged that what is considered in the



common interest of all results from processes of collective deliberation conducted rationally and fairly among free and equal individuals. The more collective decision-making processes approximate this model the more it increases the presumption of their legitimacy and rationality." She argues that participation in such deliberation is governed by the norms of equality and symmetry; all have the same chances to initiate speech acts, to question, to interrogate, and to open debate; all have the right to question the assigned topics of conversation; and all have the right to initiate reflexive arguments about the very rules of the discourse procedure and the way in which they are applied or carried out (Benhabib, 1996: 70).

Rationality (reasoned, reflexive discussion) or what Habermas (1996a: 147) would refer to as deliberation, can be considered as "unhindered communicative freedom ... (which involves) rational opinion- and will-formation" and always potentially leads to a transformation in people's preferences. My emphasis is on Habermas' notion of "unhindered communicative freedom" as a constitutive good of deliberative democracy. If an exchange of arguments or points of view in a Habermasian sense should be unconstrained, it follows from this that no individual or group of people could legitimately exclude others from deliberating on political matters that interest them. The rights of people to participate in deliberation are legally institutionalised without any individual being excluded from the political process. Habermas (1996b: 305) cites Cohen who plausibly explains deliberative democracy as follows:



(a) Processes of deliberation take place in argumentative form, that is, through the regulated exchange of information and reasons among parties who introduce and critically test proposals. (b) Deliberations are inclusive and public. No one may be excluded in principle; all of those who are possibly affected by the decisions have equal chances to enter and take part ... (d) Deliberations are free of any internal coercion that could detract from the equality of the participants. Each has an equal opportunity to be heard, to introduce topics, to make contributions, to suggest and criticize proposals. The taking of yes / no positions is motivated solely by the unforced force of the better argument.<sup>34</sup>

Moreover, if according to Habermas each individual has “an equal opportunity to be heard” in the deliberative process, then deliberative democracy underpins a concern for the inclusion of minority viewpoints, and sets limits on what the majority can legitimately do. Of course, Habermas’ argument that political deliberation must be concluded by majority decision-making does not seem to undermine the views of minorities. In this regard, he claims the following:

Political deliberation, however, must be concluded by majority decision in view of pressures to decide. Because of its internal connection with a deliberative practice, majority rule justifies the presumption that the fallible majority opinion may be considered a reasonable basis for a

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<sup>34</sup> Participants in the political process recognize the “better argument” as the most justifiable rational articulation in defence of a point of view, which of course is determined by those participants (members from both minority and majority parties) most persuaded by its reasonableness.



common practice until further notice, namely, until the minority convinces the majority that their views (the minority's) are correct (Habermas, 1996b: 24).

Habermas conceives majority decision-making in analogy with reasonableness. For him, the reasonableness of majority decision-making depends on two elements: (a) political deliberation must be concluded by majority decision-making; (b) and the principle of majority decision-making functions as a rule of argumentation requiring minority participants to persuade the majority of the "correctness" of their views. The point Habermas makes is that *de facto* majority decision-making cannot be the criterion of better and reasonable argumentation but rather, deliberative majority rule "considered as a reasonable basis for a common practice ... until the minority convinces the majority that their views are correct". In other words, democratic decisions by majority rule may be revised (and possibly reversed) on the basis that minorities have good reason to question the legitimacy of the majority outcome. Put differently, the future possibility of reversing majority outcomes means that minority views are not permanently excluded from the democratic decision making process. The kind of majority outcome envisioned by Habermas grows out of a compromise reached between majorities and minorities after agreement could not be negotiated on the basis of deliberation, that is, the majority could not convince the minority of its views and vice versa. Thus, a deliberative democracy endeavours to seek ongoing deliberation in search of the "better" argument between majorities and minorities after the parties have temporarily reached a compromise for the



sake of progress. By implication, a deliberative democracy actually compels the majority to take the minority into account, that is, making reasons answerable to minorities. In the words of Bohman (1996: 184) "majority rule provides a perfectly acceptable basis for such (deliberative) cooperation so long as minorities have the reasonable expectation of being able to affect and to revise political discussions, including decisions about the character and the conditions of political participation". The point is that majority rule should not be abandoned for ongoing debate, reflexive discussion and a means to permanently exclude minorities but, instead, should be used as a temporary aggregative procedure of voting to prevent the occurrence of impasses between majorities and minorities. In a Habermasian way, majority rule is a revisable and compromising decision taken not only to ensure that minority opinion is respected – such as the modification of majority views to meet the objectives of minorities – but rather, to safeguard an open and honest deliberation of an issue prior to taking a decision by majority vote (I again refer to this notion of deliberative majority rule in the next chapter). Thus the discussion has to shift from the question of the prevalence of simple majority decision-making in deliberative processes, to one of what constitutes better and reasonable argumentation. To some extent, Habermas (1996a: 24) recognises this point:

In contrast, a discourse-theoretic interpretation insists on the fact that democratic will-formation draws its legitimating force both from the communicative pre-suppositions that allow the better arguments to



come into play in various forms of deliberations and from the procedures that secure fair bargaining processes.

Before I explore the question as to what constitutes better and reasonable argumentation, I first need to look comparatively at different theoretical understandings of deliberative democracy. In this way, I would be better positioned to expound on the general principle of deliberative democracy which in turn, as I shall show, evokes an understanding of better and reasonable argumentation. It is my contention that it is with reference to the notion of rationality that the strength of better and reasonable argumentation can come to the fore without having to appeal to the preference of absolute majority political decision-making.

#### **4.3 THREE THEORETICAL STATEMENTS ON DELIBERATIVE DEMOCRACY**

Theoretically defined, deliberative democracy (as has been alluded to earlier) refers to the notion that legitimate political decision making emanates from the public deliberation of citizens. In other words, as a normative account of political decision making, deliberative democracy evokes ideals of rational legislation, participatory politics and civic self-governance, that is, "it presents an ideal of political autonomy based on practical reasoning of citizens" (Bohman & Rehg, 1997: ix). The upshot of such a theoretical grounding of democracy based on public deliberation presupposes that citizens or their representatives engage in reasoning together about laws and policies they



ought to pursue as a political community, that is to say, to bring about the “use of public reason” (Bohman & Rehg, 1997: x). The theoretical critiques of liberal democratic models such as democratic elitism, democratic egalitarianism and demarchism and the revival of participatory politics developed through the 1970s. Only in the 1980s, the concept of deliberative democracy began to assume some form of theoretical identity with the ideas of Joseph Bessette who first used the concept as a critique against elitist interpretations of the American Constitution (Bohman & Rehg, 1987: xiii). Since then, several deliberative theorists have endeavoured to develop plausible conceptions of deliberative democracy. For purposes of this dissertation I shall explore some theoretical statements of the concept with reference to the ideas of Habermas, Rawls and Benhabib.

#### **4.3.1 Habermas’ model of rational, consensus-oriented discourse**

Habermas (1997) offers an account of democracy which places practical reasoning amongst citizens at the core of political discourse. For Habermas, practical reasoning guides an understanding of political practice in terms of self-determination or self-realisation and rational discourse (Habermas, 1997: 39). This practice of practical reasoning for Habermas empowers citizens to decide upon the rules and manner of their living together in a self-determined way, thereby producing co-operative life practices “centred in conscious (and rational) political will-formation” (Habermas, 1997: 41). In short, Habermas contends “a politics radically situated in this world should be justifiable on the basis of reason ...” (Habermas, 1997: 41). Moreover, as has been alluded to



earlier, democratic legislature for Habermas decides by consensus at the level of inter-subjective deliberation guided by argumentation which in turn, dismisses programmed decisions in the public sphere (Habermas, 1997: 57). In the event that consensus seems unrealisable and political deadlock imminent, Habermas proposes majority decision making as “a conditional consensus” based on conditional rational discussion and argumentation: “A majority decision may come about only in such a way that its content is regarded as the rationally motivated but *fallible* result of an attempt to determine what is right through a discussion that has been brought to a *provisional* close under pressure to decide ...” (Habermas, 1997: 47). But then, such a “conditional consensus” does not require minorities to abandon their aims, but rather, “... that they forego the practical application of their convictions, until they succeed in better establishing their reasons and procuring the necessary number of affirmative votes” (Habermas, 1997: 47).

Habermas’ emphasis on citizens’ “better establishing their reasons” in political processes has some connection with discourse theory that allows “the better arguments to come into play in various forms of deliberation” (Habermas, 1996a: 24).<sup>35</sup> The “better argument” in a Habermasian way works with high levels of rational discourse that flow through both parliamentary structures and informal networks of the public sphere. This suggests that deliberative politics for Habermas works within and outside the parliamentary complex where deliberations “constitute arenas in which a more or less rational opinion- and will-formation can take place” (Habermas, 1996b: 28). When the “better



argument” does not seem to yield the desired political result, Habermas suggests the application of a compromise or shared consensus amongst citizens possessing competing political interests: “The political interests and values that stand in conflict with each other without prospects of consensus are in need of balancing ...” (Habermas, 1996b: 25). In essence, Habermas’ discourse-theoretic reading of democracy aims to achieve consensus shared by the citizenry according to procedural rules of discourse and argumentation whose fallible results enjoy “the presumption of rationality” (Habermas, 1996b: 29). In short, Habermas proposes a rational, consensus-oriented discourse of deliberative democracy.

#### **4.3.2 Rawls’ public reason**

For Rawls, public reason<sup>36</sup> accords a central role to reasoning amongst equal citizens who, as a collective body, exercise political power over one another in enacting laws and amending their constitution, what he refers to as “constitutional essentials” (Rawls, 1997: 94). Public reason insists that citizens be prepared to explain or justify the basis of their actions to one another in terms each could reasonably expect that others might endorse with their freedom and equality (Rawls, 1997: 97). In other words, the ideal of public reason specified by Rawls involves in particular the ability to justify one’s actions to others on grounds they could not reasonably reject. And, in the

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<sup>35</sup> Rawls (1995: 139) explains Habermas’ discourse theory as that which “tries to lay out completely the presuppositions of rational and free discussion as guided by the strongest reasons ... (arriving at) rational consensus ...”.

<sup>36</sup> For Habermas (1995: 123) Rawls introduces “reasonable” as a property of moral persons who possess a sense of justice and are willing and able to take account of fair conditions of co-operation.



process of justifying the grounds of their actions to others, citizens are expected to show a willingness to listen to others, as well as demonstrating a "fair-mindedness" to make reasonable alterations to their views. For instance, public reason rejects voting as a private or even personal matter. Rather, voters need to justify their political decisions to others, that is, their constituency, who in turn are persuaded by the reasonableness or "correctness and criteria of justification" (Rawls, 1997: 99). In this regard, Rawls (1997: 99) considers voting as ideally expressing one's opinion as to which preference and interest best advances the common good. The point is that voting merely involves a symbolic act of external political decision making. The actual political decision is justified to people in terms of proffered reasons, what Rawls refers to as the outcome of reflective thought and reasoned judgement.

Rawls (1997: 114) recognises several difficulties associated with public reason as outlined above. I want to address one particular difficulty as articulated by Rawls. Public reason often allows more than one reasonable answer to any particular question. I agree, since many people can offer many justifiable opinions in defence of their political persuasions and standpoints. However, if such a situation predominates, agreement would be lacking and some would say that public reason fails to resolve the question. Rawls himself posits that public reason does not favour results attained through political compromise (Rawls, 1997: 97). Consequently, I agree that public reason does offer scope to engender deliberative politics primarily because of its concern with reasonableness. But my concern with public reason is not its emphasis



on reasonableness of political arguments, but, rather, its seeming lack of interest in agreement and compromise. For this reason, Rawls' public reason does not seem to be an adequate notion of deliberative democracy in order to reconstruct liberalism in South Africa. The diverse political persuasions of different political groups would invariably require of citizens to justify their political views – Rawls' argument for "reasonability". What Rawlsian public reason cannot offer is to allow scope for consensual agreement or compromise which is definitely required by a South African politics of difference and divergence as I shall show in the next chapter.

#### **4.3.3 Benhabib's discursive democracy**

Benhabib (1996: 75) questions Rawls' idea of public reason as follows: Firstly, Rawls restricts the exercise of public reason to deliberation about "constitutional essentials" and questions of basic justice. I agree with this criticism since public reason for Rawls "is the reason of equal citizens who ... exercise final political and coercive power over one another in enacting laws and in amending the constitution" (Rawls, 1993: 214). For Benhabib the deliberative model insists upon the openness of the agenda of public debate. In other words, she argues that legitimacy in complex democratic societies must result from the free and unconstrained public deliberation of all citizens about matters of common concern, and not just about a specific subject matter involving constitutional issues and questions of basic justice (Benhabib, 1996: 68).



Secondly, Rawls considers public reason as a regulative principle imposing limits upon how individuals, institutions, and agencies ought to reason about public matters. The limits of public reason are determined by a "political conception of liberalism". For Rawls (1993: 226), "(t)he ideal of public reason is that citizens are to conduct their fundamental discussions within the framework of what each regards as a political conception of justice based on values that the others can reasonably be expected to endorse and each is, in good faith, prepared to defend that conception so understood. This means that each of us must have, and be ready to explain, a criterion of what principles and guidelines we think other citizens (who are also free and equal) may reasonably be expected to endorse along with us". On the contrary, Benhabib (1996: 75) views public reason as a process of reasoning among citizens. In her words: "According to the deliberative model of democracy, it is a necessary condition for attaining legitimacy and rationality with regard to collective decision making processes in a polity, that the institutions of this polity are so arranged that what is considered in the common interest of all results from processes of collective deliberation conducted rationally and fairly among free and equal citizens" (Benhabib, 1996: 69). Put differently decisions affecting the well-being of a collectivity are viewed akin to the outcome of a procedure of free and reasoned deliberation among individuals considered as moral and political equals.

Thirdly, for Rawls the limits of public reason are not applicable to personal deliberations and reflections about political questions or what he refers to as "reasoning about them by members of associations such as churches and



universities" (Rawls, 1993: 215). In other words, the reasoning of corporate bodies and associations is "public" with respect to its members, but not "non-public" with respect to political society and citizens in general, that is, the state, including the legal sphere and its institutions. Benhabib's discursive notion of democracy, unlike Rawls' idea of public reason, does not separate the personal from the political precisely because "politics and public reason are always seen to emerge out of a cultural and social context" (Benhabib, 1996: 76). In a different way, for Benhabib reason is always situated in a context that it can never render transparent all the cultural and social conditions that give rise to it. Hence, for Benhabib deliberative democracy does not restrict the agenda of public conversation but rather, encourages discourse which integrates the public and the private, as well as being more interested in the ways in which political processes interact with cultural and social contexts.

In summary of this section, despite the existence of different and nuanced theoretical understandings of deliberative democracy, deliberative theorists such as Habermas, Rawls and Benhabib generally agree on one specific issue: political processes involve more than self-interested competition governed by bargaining and aggregative mechanisms. In short, deliberative democracy involves open, uncoerced deliberation of political issues at stake with the aim to arrive at rationally agreed upon judgments. To my mind this notion of rationality constitutes the general principle of deliberative democracy which I shall now explore in further detail.



#### **4.4 RATIONALITY AS THE GENERAL PRINCIPLE OF DELIBERATIVE DEMOCRACY**

My argument that rationality, with reference to the ideas of Taylor (1985), best elucidates the ideal of better and reasonable argumentation most congruent with deliberative democracy, has four main normative elements: (a) the view that rational articulation of arguments is a valuable part of human agency, (b) the view that political formulations have to be consistent and without contradiction, (c) the view that everyone should in principle be attuned with “the order of things”, and (d) the view that relevant arguments need to be advanced in inter-subjective processes of rational deliberation.

I shall now elucidate these normative conceptions of better and reasonable argumentation.

##### **4.4.1 Rational articulation**

By “rational articulation” I mean the individual’s readiness to express and provide reasons in support of his or her self-interpretations and judgments in a lucid, coherent and logical manner. Support for such a view of rational articulation can be found in Taylor’s (1985: 137) idea of rationality: “(Rational articulation) seems to involve being able to say clearly what the matter in question is ... (in such a way that) we have a rational grasp of something when we can *articulate* it, that means, distinguish and lay out the different features of the matter in perspicuous order”. In short, citizens engaged in



public deliberation along the lines of democratic decision-making should articulate their preferences, that is, supply well-ordered reasons in support of their claims to others of their subjectively held views and judgments. In doing so, they open up their subjectively held political views and judgments to rational challenge by others. In other words, individuals do not impose their "private reasons" on the democratic process without justifying and subjecting it to any form of public critical scrutiny. Bohman (1996: 5) accentuates the importance of rational articulation vis-à-vis public scrutiny for deliberative democracy by arguing that it is crucial for citizens and their representatives to test their interests and reason in a public forum before they decide. This implies that the deliberative process demands that citizens justify their decisions and opinions by appealing to common interests or by arguing in terms of reasons that 'all could accept' in public debate. The point is that the ensuing collective decision should in some sense be justified by public reasons, that is, persuasive reasons acceptable to everyone participating in the process of deliberation.

What follows from the above, is that unless majority political decision-makers can provide well-ordered reasons and sufficient justification for their particular evaluations, open to public scrutiny by others, rejecting minority views on the grounds of quantification only seems to be antecedent to, and forever removed from, the process of political deliberation. This view of rational articulation, particularly subjecting one's views to critical scrutiny by others, finds expression in the ideas of Galston (1991: 176) who argues for four main points: (1) An understanding of means-ends relations sufficient to play an



active, independent role in the economy and society; (2) each individual's understanding of himself or herself as similar to others for certain purposes, that is, as properly governed by general social rules; (3) the ability to respond to rational persuasion (as opposed simply to force and threats); (4) when deliberating publicly in matters requiring collective action, the disposition to employ public reasons, *open to inspection by others*, whenever possible.

Similarly, MacIntyre (1988: 394) considers rational articulation as the supply of justifiable reasons in support of one's arguments through engaging in critical inquiry. For MacIntyre, rational articulation comprises a set of modes of action and of interpretative rules for actions which exhibit an intelligible and justifiable mode of reasoning which has not previously been the case, and which requires of such persons to engage, to whatever degree is appropriate, both in the ongoing arguments in a critical way. Hence, it is the prospect of articulating justifiable reasons for political decisions that makes deliberative democracy more attractive than its competitors. This is so primarily because justifying reasons offered for deliberation in a political discourse concerns a process on the basis that most people in the deliberative process find the reason acceptable.<sup>37</sup> Of course, one can find a situation whereby reasons are provided and argued for, yet opponents remain unconvinced. In this instance, a compromising decision (as Habermas suggests) needs to be taken on the part of proponents (say, majorities) and their opponents (minorities), that is, to temporarily accept the view which might be reasonable for the majority, but unreasonable for the minority or vice a versa. The majority and minority



should recursively, at a later stage, continue seeking to revise or modify the compromising decision in order to meet the objections of the minority.<sup>38</sup> With regards to the acceptance of reasons, I agree with Bohman (1996: 35) when he posits that in deliberative discourse reasons backing a political decision are public (and acceptable) when they are convincing enough to motivate most citizens, even a dissenters, to continue to operate in deliberation even after the decision has been made.

Reasons of this sort attained through a process of deliberation are more convincing rather than based on power asymmetries such as majority vote. Lijphart (1999: 2) contrasts the majoritarian and deliberative (consensus) models of democracy by arguing that the deliberative model does not differ from the majoritarian model in accepting that majority rule is better than minority rule. Rather, the deliberative model accepts majority rule only as a *minimum* requirement. In other words, instead of being satisfied with narrow decision-making majorities, it seeks to maximize the size of these majorities. Its rules and institutions aim to establish broad participation in government and broad agreement on the policies that government should pursue (I shall argue this point in the following chapter).

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<sup>37</sup> It's not just a matter of voting for a political decision but, rather, for participants to establish reasonable conditions for deliberation to take place prior to, if necessary, any voting procedure.

<sup>38</sup> I am by no means creating the impression that deliberation and majority decision making stand in opposition to each other. On the contrary, I contend (as have been argued for earlier in the chapter) that deliberation simply seems to be a mechanism of refining majoritarianism, as well as optimising its legitimacy in a way proposed by Habermas; to temporarily use majority rule in the event of deadlock.



#### **4.4.2 Consistent political formulations**

My discussion of rationality also aims to show why consistent political formulations constitute part of a convincing defence for better and reasonable argumentation and hence, deliberative democracy. It makes no sense for individuals in political processes to articulate their self-interpretations and judgments with ambivalence and contradictions. The beneficial effects of rational articulation can accrue only if the individuals concerned articulate their political preferences with consistency in deliberative politics. Taylor (1985: 137) makes the point that to strive for rationality in deliberative politics is to be engaged in articulation, in finding the appropriate formulations. Yet, he also invokes the understanding that a standard intrinsic to the activity of formulating is that the formulations be consistent. Put differently, nothing is clearly articulated with contradictory formulations which makes "consistency is plainly a necessary condition of rationality" (Taylor, 1985: 137).

Once again the argument for absolute majoritarian preference in political deliberation becomes insufficient for the reason that, in defence of the better argument, majority views might not always be consistent and unambiguous political formulations. Absolute majority preference provides no criterion for assessing the quality of arguments; rather, consistent political formulations provide such a criterion. Rational argumentation in this sense means that everyone is deemed capable of making informed and consistent judgments on political matters, more precisely, that no-one's consistent and reasonably articulated arguments should be discounted on grounds of majority or minority



preferences. The point is, every citizen's contribution in deliberative politics, if consistently articulated, must be seen worthy of consideration. Bohman (1996: 7) states that deliberative democracy accords to beliefs and actions a rational character insofar as they can be supported publicly by good reasons. And, the exchange of reasons takes place in "a *discourse* in which participants strive to reach agreement solely on the basis of the better argument, free of coercion and open to all competent speakers".<sup>39</sup>

#### **4.4.3 Attunement with the "order of things"**

By being rational individuals also have to be attuned with the "order of things", in this instance, political decisions, procedures and issues of public policy. In other words, individuals intent on producing the better argument have to be engaged in an informed (with understanding and impartiality) and perceptive way with his or her socio-political context, and with other persons for the common good of it. Taylor (1985: 142) establishes a connection between the idea of achieving the better argument and being in attunement with the "order of things":

We do not understand (articulate the better argument) without understanding our place in it, because we are part of this order. And we cannot understand the order and our place in it without loving it, without

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<sup>39</sup> The better argument is "best" decided by persuasion. But, in the event of an impasse between the majority and minority, majority rule can temporarily be used after which the decision can again be revised on the grounds of more reasonable arguments provided by the minority.



seeing its goodness, which is what I want to call being in attunement with it.

However, does being part of the "order of things" necessarily mean that every individual should directly participate in deliberative politics? I do not think that being part of the "order of things" on the basis of political participation implies direct consent of every individual on every issue. Being attuned to political issues does not mean that every citizen must be directly involved in the affairs of government. Certainly in South Africa direct participation on the part of every citizen would be unfeasible since the emphasis on direct democracy would be more on getting the mass of citizens involved in political decision-making rather than reflecting on the reasonableness of the decisions themselves. Representative political structures dedicated solely to the debate of political matters of public concern such as voting and elections can counteract the difficulties associated with direct participatory democracy. To say that every citizen should directly participate in political deliberation is to assume (a) that individuals only have subjective beliefs, aspirations and political values, which ought to shape democratic practices; and (b) that there are no inter-subjective (common) meanings about political discourse which individuals might collectively share. I agree with Taylor (1985: 36) when he claims that people in any society have all sorts of beliefs and attitudes, which may be thought of as their individual beliefs, and attitudes, even if others share them. But what they do not own are the meanings constitutive of political discourse. For example, public debate on political matters is not just an arena where pre-formed interests or views of people are fought out,



culminating in a majority vote. The point is that public debate is constituted by inter-subjective meanings or a set of common terms of reference such as for people to reasonably reflect on their views during the process of deliberation, and for them to reach an agreement on what political decision should be made on the issues in question. These inter-subjective meanings are rooted in the political practice of public debate and could not be the single property of individuals. Taylor (1985: 36) explains inter-subjective meanings as follows:

It is not just that the people in our society all or mostly has a given set of ideas in their heads and subscribes to a given set of goals. The meanings and norms implicit in these practices are not just in the minds of the actors but are out there in the practices themselves, practices which cannot be conceived as a set of individual actions, but which are essentially modes of social relation, of mutual action.

The idea of inter-subjective deliberation is also advanced by Bohman (1996: 57) as a process of dialogue, which involves "the mere give and take of reasons ... (with the aim) to produce (common) claims that are wide enough in scope and sufficiently justified to be accountable to an indefinite public of fellow citizens". Consequently, there are common, inter-subjective meanings which form the basis of political discourse which can give people a common language to articulate their points of view in a collective way, thus making the idea of representation more hospitable to a deliberative political process than an arrangement based on direct participation alone. The fact that there are inter-subjective meanings which constitute political discourse, provide people



with a common reference world they can share and in terms of which they can represent one another, thus repudiating the idea of direct participation of all individuals in political processes. In essence, being attuned to the “order of things” in an inter-subjective way does not necessarily require the political structures of a direct participative democracy. What it does require, is that there be the means whereby political decision-making be done in a deliberative and representative way with the distinct aim to reach justifiable agreement among various political agents. In this regard, I agree with Gutman (1996: 344) who argues that deliberative democracy has an advantage over participatory democracy for the reason that it recognises the provisional nature of justification in politics, that is, citizens’ understanding of issues change over time as well as through deliberative interchange – where justification involves respecting many moral and cultural differences within and across societies.

However, in order for representatives of political constituencies to reach agreement among themselves thus attuning themselves to the “order of things”, does not mean that political decision-making should solely be subjected to majority vote. Why not? Reaching agreement is to disclose a sincere and rational way of securing “mutually respectful social co-operation” (Callan, 1998: 62). Mutual social co-operation implies that people (majorities and minorities) have to respect each other and be sincere to meet each other half way, to compromise. Compromise, in the words of Bohman (1996: 89) “is all about coming to an accommodation or making concessions. It involves tradeoffs and balances of interests – making concessions of one’s own for



equal ones by others". The question can legitimately be asked how such a compromise could be established and ensured. My contention is that participants (say at parliamentary level) could temporarily make an agreement based on majoritarian decision making, but should also procedurally build in the deliberative process a reflexivity principle which allows for the public re-examination of majoritarian decisions, what Benhabib (1996: 72) refers to as that reflexivity<sup>40</sup> condition which allows abuses and misapplications at the first level (say, parliamentary level) to be challenged at a second meta-level of discourse (say, at provincial levels and in public forums). Also, Gutman and Thompson (1996: 43) argue that deliberative processes help distinguish true moral disagreements from agreements that could be resolved by "bargaining, negotiation or compromise" or by rational clarification. In this regard Lijphart (1999: 2) claims the following:

A closely related difference is that the majoritarian model of democracy is exclusive, competitive, and adversarial, whereas the consensus (compromising) model is characterized by inclusiveness, bargaining, and compromise; for this reason consensus democracy could also be termed 'negotiation democracy'.

When people in a public debate compromise they do not merely advance the position of their individual or group interests but, rather, develop a shared willingness to make minimal use of controversial empirical premises. For

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<sup>40</sup> Schwandt (1997: 135) refers to reflexivity or reflectivity as two different ideas informing inquiry: (1) the process of critical self-reflection on one's biases, theoretical predispositions, preferences, and so on; and (2) critical examination of *how* one's personal and theoretical



Bohman (1996: 91), in a compromise parties do not modify the framework to achieve unanimity but rather, modify their conflicting interpretations of the framework so that each can recognise the other's moral values and standards as part of it. In other words, the framework is then common enough for each party to continue to cooperate and deliberate uncontroversially with the other. For example, people in a diverse society do little to push toward controversial political views, which undermine their abilities to justify them so long as such a society lacks a substantial body of uncontroversial political views. Habermas (1996a: 324) posits that reaching mutual understanding (compromise) through deliberative discourse guarantees that issues, reasons, and information are handled reasonably. Thus, to avoid perpetual conflict, which may bring us nowhere, we need to develop what Callan (1998: 76) refers to as "a shared group-interest in compromise", a kind of shared loyalty that can push hard in the direction of temporary agreement between majorities and minorities who need to respect each other, until political decisions are again subjected to reflexive re-examination at another "meta-level", that is, parliamentary majoritarian decisions could be subjected to reflexive scrutiny at provincial and local government levels. This kind of shared compromise is summarised by Callan (1998: 76) in the following manner:

Patriotism (shared loyalty) can empower us to resist this kind of failure (minority and majority egoism) to the extent that it gives us a shared group-interest in compromise. We no longer broach the prospect of compromise with wholly separate identities so that any gain for you is a

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commitments serve as resources for generating particular constructions of meaning in



loss for me and *vice versa*. The achievement of compromise is itself of value to us because it affirms the unity and continuity of a political community we both cherish.

In the context of pursuing respectfully and non-arbitrarily a deliberative democratic discourse in a diverse South African society we have to develop “a shared group-interest in compromise” which can prevent us pushing toward convergent interpretations of politics. Rather, we (minorities and majorities) need to develop compromising understandings of politics that can advance our shared interests in a diverse political community. For this reason Habermas (1996a: 331) makes the point that in a deliberative democracy “... all politically relevant collective actors enjoy roughly equal opportunities to influence the decision-making processes that concern them; that the members of the organisations determine the politics of pressure groups and parties (minorities and majorities); and that the latter in turn are pushed by multiple memberships into a readiness for compromise and the integration of interests”. The idea of “a shared group interest in compromise” also finds expression in the work of Bohman (1996: 84) who posits the following:

... (W)hat is required in cases of deep conflict is a genuinely *moral* compromise in which plural public reason is exercised in the process of creating the framework for such an ongoing public consensus, now a minimal one that demands only the willingness to continue to cooperate.

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particular contexts, meanings one would probably not have thought about.



In summary, the general principle of deliberative democracy is rationality. Rationality involves, what Habermas (1996a: 322) refers to as a process of argumentation in which those taking part justify their reasons with consistent and unambiguous political formulations. When a person is rational, he / she is in principle attuned with "the order of things" in unconstrained inter-subjective processes of deliberation. In a Habermasian way, rationality as "the centerpiece of deliberative politics consists in a network of discourses and bargaining (compromising) that is supposed to facilitate the rational solution of pragmatic, moral, and ethical questions ..." (Habermas, 1996b: 320).

However, rationality can also be linked conceptually to MacIntyre's notion of practical reasoning as articulated in the previous chapter, namely, caring, conversational justice and political reasoning. Thus far, I expounded upon rationality as the general principle of deliberative democracy with respect to four main points: (a) the view that rational articulation of arguments is a valuable part of human agency, (b) the view that political formulations have to be consistent and without contradiction, (c) the view that everyone should in principle be attuned with "the order of things", and (d) the view that relevant arguments need to be advanced in unconstrained inter-subjective processes of rational deliberation. I shall now explore why these constitutive meanings of rationality can also bring about caring, conversational justice and political reasoning. In this way, I hope to show that deliberative democracy with its guiding principle of rationality can bring about reasoned and justifiable decision making in socio-political discourse vis-à-vis caring, conversational



justice and political reasoning – all features of MacIntyre's idea of communitarianism.

First, the rational articulation of arguments in a Taylorian sense brings into question the notion of justification. People not only have to explain and justify their political points of view, decisions or choices, that is, possess an ability to logically construct and understand arguments and their appropriateness to different political contexts (Raz, 1999: 68-70), but should also *care* about making political arguments reasonable to other citizens. In other words, rationality should also have the effect whereby people develop the capacity to reach their own justifiable conclusions or inferences to which they are to be held accountable by and to others for those conclusions or inferences. Clearly Rawls' (1993: 243) idea of public reason subscribes to such an idea of rationality. The idea of public reason requires of citizens to articulate justifiable reasons to others who might consider these reasons as "reasonable" when political questions are at stake. Rawls (1993: 243) explains public reason as follows:

What public reason asks is that citizens be able to explain their vote to one another in terms of a reasonable balance of public political values, it being understood by everyone that of course the plurality of reasonable comprehensive doctrines held by citizens is thought by them to provide further and often transcendent backing for those values ... It is true that the balance of political values a citizen holds must be



reasonable, and one that can be seen to be reasonable by other citizens ... .

Now for the reason that rationality is the general principle of deliberative democracy, and bearing in mind that Rawls' notion of public reason implicitly acknowledges the articulation and exchange of political arguments involving caring, one can safely claim that deliberative democracy can ensure that caring unfolds in deliberation. Public reason is presented by Rawls as an essentially rational process of deliberation in which "political values a citizen holds must be reasonable, and one that can be seen to be reasonable by other citizens". Put differently, Rawls (1993: 218) opines that through public reason people "should be ready to explain the basis of their actions to one another in terms each could reasonably expect that others might endorse as consistent with their freedom and equality" – a matter of cultivating in others the care to justify their actions and to which they are to be held accountable by and to others for those actions. In this way, the rational articulation of arguments in the domain of the public sphere makes the idea of a caring possible.

Second, if rationality involves the capacity of people to articulate unambiguous political arguments then it has to invoke the idea of conversational justice, which demands that they (people) produce coherent arguments to justify their points. Rawls' (1993: 220) idea of public reason, which embeds rationality, is inextricably linked to "standards of correctness and criteria of justification". In a Rawlsian sense "criteria of justification" not only refer to an articulation of



arguments without contradiction, but also “a willingness to listen to others and a fairmindedness in deciding when accommodations to their views should reasonably be made” (Rawls, 1993: 217) – a matter of engaging in conversational justice. By implication rationality as the general principle of deliberative democracy can engender conversational justice through which citizens willingly justify their political articulations to one another.

Third, if rationality involves the capacity of people to be attuned with “the order of things” then it means that people have to be engaged in an informed, perceptive and reflexive way with their socio-political context, and with other persons for the common good of it. Thus, the idea of being attuned with one socio-political context invokes the idea of political reasoning which holds that each individual has to contribute “to the shared deliberations of the community in his or her own voice” (MacIntyre, 1999: 140). Rawls (1993: 252) explains deliberative democracy in this same vein on the basis that citizens in a society share in the political power they exercise over one another “when they engage in political advocacy in the public forum, in political campaigns for example when they vote on those fundamental questions”. In other words, they are attuned with their socio-political context. In his words, deliberative democracy involves

... a political relationship between citizens within the basic structure of the society (socio-political context) into which they are born and within which they normally lead a complete life: it implies further an equal



share in the coercive political power that citizens exercise over one another by voting and in other ways (Rawls, 1993: 217-218).

What follows from the above is that deliberative democracy can bring about political reasoning through which citizens share in the inter-subjective (rational) deliberations with their socio-political contexts. In essence, deliberative democracy guided by the principle of rationality can enact goods of practical reasoning (caring conversational justice and political reasoning) associated with MacIntyre's view of left communitarianism explained in chapter 2.<sup>41</sup>

#### **4.5 SUMMARY**

In this chapter I have shown how and why rationality constitutes the guiding principle of deliberative democracy. Rationality involves (a) the view that rational articulation of arguments is a valuable part of human agency, (b) the view that political formulations have to be consistent and without contradiction, (c) the view that everyone should in principle be attuned with "the order of things", and (d) the view that relevant arguments need to be advanced in unconstrained inter-subjective processes of rational deliberation. In turn I have shown how three major statements of deliberative democracy emphasise the notion of reasonable and justifiable deliberation in the socio-political sphere with reference to the ideas of Habermas, Rawls and Benhabib. Finally I have

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<sup>41</sup> I am by no means suggesting that deliberative democracy requires a communitarian crutch but rather, the guiding principle of deliberative democracy (that is, rationality) can actually cultivate notions of caring, conversational justice and political reasoning associated with MacIntyre's left communitarianism espoused in chapter 2.



shown how rationality can cultivate notions of practical reasoning associated with MacIntyre's idea of left communitarianism.



## **CHAPTER 5**

### **CLOSING LIBERAL GAPS THROUGH DELIBERATIVE DEMOCRACY**

#### **5.1 INTRODUCTION**

In chapter 3, I have shown that liberalism in South Africa can be associated with three distinct weaknesses: the need for non-majoritarianism to procure minority freedoms; equalising opportunities through affirmative action and providing procedural rights to the disadvantaged. In this section, with reference to constitutive features of deliberative democracy, I firstly argue that majority rule does not have to be considered a threat to liberal democracy in South Africa or as a means to exclude minority “voices”, and that majoritarianism can be considered as a temporary compromising mechanism of deliberative discourse in order to avoid political impasses. Secondly, I contend that equalising opportunities for all does not have to be considered only as a means to ensure White privilege but rather, as a genuine attempt (as deliberative democracy suggests) to move towards greater equity and a heightened sense of community in South Africa after decades of political, social and economic injustice. Thirdly, I argue that deliberative democracy can help us to enable South African citizens to have access to both procedural and substantive rights – a situation in turn, which can lead to a more defensible form of liberal democracy.



## **5.2 POLITICAL ACCOUNTABILITY AND DELIBERATIVE MAJORITY RULE**

The question arises: What is wrong with absolute majority rule? One might find that some political decisions, which have been taken on the basis of majoritarianism might be considered as reasonable by minorities. However, it is the mere statistical exclusion of other albeit minority points of view which brings into question the legitimacy of minority participation and hence, accountability towards minority parties and their electoral voters. Why? To be accountable in a political sense in the first place implies that one has to give a justifiable explanation of one's proceedings and decisions. My contention is that the mere statistical presentation of acquired votes does not always sufficiently provide a justification for political decisions attained. The idea of deliberative democracy directly challenges majoritarianism, more specifically political decisions taken on the basis of simple majority vote. Both the National Assembly and National Council of Provinces are constitutionally bound to provide "a national forum for public consideration of issues" before legislation can be passed which seems to be in line with the idea of deliberative democracy. However, if political decisions which emanated from "public consideration" have been taken on the grounds of simple majoritarianism, the possibility exists that such decisions might exclude the legitimate interests of minorities.

I shall now examine in more detail why a deliberative democratic framework could engender better political accountability through public deliberation than simple or absolute majoritarianism. Of course, my potential critic might argue



that “deliberation” is already advocated by liberals and therefore, sees no need for accentuating this point. I agree, “deliberation” undoubtedly occurs in the politics of liberals. However, my contention is that the political decisions which ultimately emanate from “deliberative efforts” of politicians are mostly determined by simple majority vote – as if good political decisions are always necessarily the corollary of majoritarianism. I disagree. Kymlicka (2002: 290) makes an argument for a “talk-centric” notion of democracy rather than just a “vote-centric” one. He argues that after the Second World War, democracy was understood almost exclusively in terms of voting: “Citizens were assumed to have a set of preferences, fixed prior to and independent of the political process, and the function of voting was simply to provide a fair decision-making procedure or aggregation mechanism for translating these pre-existing preferences into public decisions, either about who to elect (in standard elections) or about what laws to adopt (in issue-specific referenda)” (Kymlicka, 2002: 290). However, increasingly this “aggregative” or “vote-centric” conception of democracy was viewed with suspicion since it could not fulfill norms of democratic legitimacy. This is so for the reason that preferences formed prior to and independently of the political process, provided no opportunity for citizens to try to persuade others of the merit of their views or the legitimacy of their claims. In other words, the aggregative vote-centric model does not expect or encourage citizens to meet in public to debate and discuss in public the reasons for their claims (Kymlicka, 2002: 290). Consequently, Kymlicka (2000: 290-291) posits that the aggregative model provides a mechanism for determining winners and losers, but no mechanism for developing consensus, or shaping public opinion, or even formulating an



honourable compromise whereby outvoted citizens who might believe that their claims are based on fundamental principles of justice had no opportunity to persuade others of this claim, or to be persuaded by others that they were mistaken. This he contends is particularly true for people belonging to a marginalised minority group, who know in advance that they have little hope of winning a majority vote. I agree, hence, my argument for deliberative democracy and not complete majoritarianism.

Of course, as have been discussed earlier, in the event of any stalemate the majority vote could be used as a temporary procedural mechanism for achieving political decisions, but deliberation should remain the means towards publicly re-examining such decisions. In the words of Benhabib (1996: 72), "Parliamentary procedures of opposition, debate, questioning and even impeachment proceedings, and investigatory commissions (need to) incorporate this rule of deliberative rationality that majoritarian decisions are temporarily agreed-upon conclusions, the claim to rationality and validity of which (majoritarian decisions) can be publicly re-examined".

Liberalism, as has been argued for previously, considers non-majoritarianism as a way to avoid possible unreasonable and unjustifiable exclusion of minority points of view. For liberals it seems as if non-majoritarianism can ensure better political accountability. My contention is that political accountability can best be secured if political decisions are arrived at through deliberation which may contribute towards achieving a defensible form of multiparty democracy in South Africa. But this does not mean that non-



majoritarianism needs to be considered as an option in South African politics. In the first place, public political procedures and decisions based on fairness (in a Rawlsian sense of course), equitable access, non-exclusion, non-biasness and participation cannot occur independently from rational deliberation, the guiding principle of deliberative democracy. However, when agreement in decision making cannot be achieved, majority rule can be used as a temporary procedure to ensure any kind of indefensible stalemate – a situation which might further enhance South Africa's multi-party democratic system. Consequently, I shall show why and how a deliberative democratic framework can shape political issues involving public deliberation, which can hopefully ensure better political accountability and avoid liberalism's concern with non-majoritarianism.

### **5.2.1 Political accountability and shared rational deliberation**

As has been argued for in the previous chapter, deliberative democracy invokes an understanding of public participation whereby all legitimately interested groups or political parties not only have to explain and justify their points of view, decisions or choices, but should also make their arguments reasonable to others and by which they are to be held accountable by and to others for those arguments. For instance, majority party members are expected to justify their arguments to other members of their party as well as to members of minority parties. Justification requires that majority party members are open to different points of view (including those of minorities) and to seriously consider reasonable arguments produced by others. The



point is that majority vote should not be a prerequisite or determining factor for reaching political decisions but rather, that decisions should be subjected to reasonable deliberation with majority rule used as a temporary procedural mechanism to prevent any form of unjustifiable deadlock, and until parties whose interests are negatively affected can find recourse to other methods for the articulation and representation of their grievances. But then, all parties in the first place need to engage with the deliberative process. They have to participate. This form of participation demands that participants be capable of justifying their views of how things should go to others, it requires that they be open to a multiplicity of points of view, and it requires that a person be capable of taking other persons' points of view seriously enough to accommodate them (Christiano, 1990: 154).

Put differently, deliberative democracy creates space for a rational process of deliberation in which people have to explain the basis of their actions to others. Gould (1988: 291) defends rational public deliberation by tying it to a number of character traits democratic institutions need to foster: a tendency to rationally justify one's actions to others, openness towards others' views and opinions and to take other people's interests seriously as on equal footing with one's own. In tune with such a view of rational public deliberation, state institutions (such as the National Assembly, National Council of Provinces and provincial legislatures) cannot just subject legislation to public consideration and scrutiny but, rather, must ensure that political issues of public importance become a locus for rational deliberation. Here I would suggest the consolidation of existing institutional structures and extra-parliamentary



forums of civil society, as well as the establishment of new ones along the lines of deliberative politics, which can ensure the scrutiny and public consideration of issues that affect citizens. And, for the reason that deliberation is linked to the achievement of a shared compromise (as has been developed in the previous chapter), the outcome of deliberations vis-à-vis political matters cannot merely be left to statistical (numerical) voting which advantages absolute majoritarianism. A shared compromise through rational and public deliberation has the potential to avoid discounting justifiable points of view or even excluding minority views, which might otherwise not have been considered using strictly majority decision making through representative proxies.<sup>42</sup> In this regard Sartori (1987a: 137) quite correctly posits “(t)he majority method connotes only a mathematical majority; it does not denote an enduring major part of a collectivity”. Likewise, a shared compromise can also minimise the possibility of conflicting and divergent understandings of political matters between say, minorities and majorities. It is in this sense that a shared compromise can engender better political accountability. I agree with Sartori (1987a: 33) that the idea of unlimited majority rule may exercise its political power without restraints which inevitably leads to treating the “non-majority unfairly and unequally”. For this reason he makes a convincing argument for democracy conceived as “majority plus minority” and not non-majoritarianism. This he cogently explains as follows:

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<sup>42</sup> Radical pro-lifers and pro-choicers might have serious reservations about each other's points of view on the issue of abortion. The point is that each group might justifiably articulate rational, yet, divergent points of view. In this case, some shared compromise has to be found in order to avoid endless controversy and conflict. The constitutive arguments of such a shared compromise might yet not constitute the language of both groups. Therefore, unless some compromise whereby pro-lifers and pro-choicers have to relinquish some of their points of view on the issue is found, majority voting would further entrench the ensuing bitter and infinite conflict between the two groups.



... (I)f the majority *criterion* is turned (erroneously) into an absolute majority *rule*, the real-world implication of this switch is that a part of the people (often a very large one) becomes a non-people, and excluded part. Here, the argument is that when democracy is assimilated to pure and simple majority rule, by this assimilation a portion of the demos is *eo ipso* converted into a non-demos. Conversely, democracy conceived as a majority rule limited by minority rights corresponds to the people in full, that is, the sum total of majority plus minority. It is precisely because the rule of the majority is restrained that *all* people (all those who are entitled to vote) are *a/ways* included in the demos (Sartori, 1987a: 32-33).

For instance, assume the majority party continuously exercises unrestrained political power such as is arguably the case in Zimbabwe. Inevitably such a majority, with reference to the unfair confiscations of white owners' farms without reasonable compensation, treats the non-majority unfairly and unequally. However, if the majority ruling party has to be restrained, all the people (including minority whites) would necessarily be included in the "demos". In this regard I agree with Kymlicka (2002: 291) who purports that the "vote-centric" approach needs to be partially replaced by the "talk-centric" one, which focuses on "processes of deliberation and opinion formation that precede voting". What this means, is that aggregative procedures (as liberalism's non-majoritarianism implies) should not in its entirety be dismissed



for the reason that after arguments have been duly considered, some voting or electoral procedure is required for resolving remaining disagreements.

Regarding the issue of political legislation, following Sartori (1987a: 92), a shared compromise, which he refers to as “policy consensus” evokes dissent, opposition, adversary politics, contestation and conflict – all positive features of democracy through rational deliberation. In his words, policy consensus (shared compromise)

... brings to the fore consensus-as-dissensus and sustains the view forcefully stated by E. Baker that ‘the basis and essence of all (deliberative) democracy is ‘government by discussion’. This is indeed the context in which dissent, dissensus, and opposition emerge as characterizing elements of (deliberative) democracy (Sartori, 1987a: 91).

In essence, political accountability can best be achieved through achieving a shared compromise based on rational deliberation between majorities and minorities at constitutional and societal levels. A shared compromise is aptly summarised by Sartori (1987a: 229):

When saying (shared) compromise, we generally understand that the parties to a settlement meet somewhere halfway on the specific matter to be settled ... (whereby) each resolution may be long fought and end in a middle-course solution. But there is more to it. What is peculiar to



(political) committees is that their members engage in *exchanges over time* and having especially in view a future time (for better political accountability).

It is to a discussion of the reasonableness of “exchanges” between people or parties (groups) regarding political decisions that I now return.

### **5.2.2 Political accountability and reasonable political decisions**

Deliberative democracy has the effect whereby people (majorities and minorities) not only produce coherent arguments to justify their political points of view, but also willingly engage with and listen to others in order to make reasonable decisions – a matter of educating conversational justice. But reasonable decisions or “exchanges” are not just any kind of decisions people willingly and engagingly come up with. For Sartori (1987: 221) political decisions need to be “reasoned” and should be the result of “discussed elaboration”. He posits that the searchlights should not be so much focused on the “rational voter” but rather on the “rational decision maker” (Sartori 1987a: 120). Since Sartori himself does not adequately explore this position, I shall elucidate with reference to the work of Peters (1998) what constitutes reasonable political decisions.

Peters (1998: 223) argues that a person engaging in an “activity of justification”, in this instance reasonable political decision making, articulates with increasing understanding and imagination, aspects of the situation in



which he (she) is placed, and in pursuing various differentiated forms of inquiry he (she) will be instantiating, on a wider scale, the very values of reasonableness. These values of reasonableness include the following: respect for facts and evidence, precision, clarity, rejection of arbitrariness, consistency, and the general determination to get to the bottom of things. In order to "get to the bottom of things" in a reasonable way implies a form of action whereby an individual inquires, explores and makes complex judgments of perplexing situations through curiosity (Peters, 1998: 225) such as to ask the Socratic question "What is the point of it all?". A person who is curious is a person who wonders about the things she explores and the relevance of her concern. In other words, to be involved in political decision making in a non-instrumental way is not always to do things for the sake of extrinsic ends, but to enjoy and perform in a way related to "the point of the activity" and to have "a sense of its connection with other things in life". According to Peters (1998) this non-instrumental pursuit of imaginative inquiry not only requires that a person stretches her intellectual powers through rational assessment, but also enjoys the experience of wonder. Hence, the non-instrumental justification of political decision making is grounded in both reasonableness (thinking through) and imagination (moving beyond). This brings me to a discussion of reasonableness as a form of self-examination with its links to virtues such as truth-telling and sincerity, freedom of thought or liberty, clarity of meaning, non-arbitrariness, impartiality, a sense of relevance, consistency, and respect for evidence and people. Reasonableness, as explained by Peters (1998: 226), is a capacity to ask why, to develop grounds for one's thoughts, and to give reasons which count for or against points of



view in a logical and systematic manner. Reasonableness also aims to establish relevant connections between different ways of understanding, inseparable from virtues such as, truth-telling and sincerity, freedom of thought or liberty, clarity of meaning, non-arbitrariness, impartiality, a sense of relevance, consistency and, respect for evidence and people.

First, reasonableness implies that political decision making has to be practised in a sincere and truthful way. Sincerity and truthfulness are based on an understanding that one has to be honest and willing in one's actions - more specifically in political decision making. People engage in political decision making, which makes the latter a form of public as opposed to a private discourse, where the public aura of political decision making involves decisions, which are "responsive and accountable to the citizenry at large" (Sartori, 1987a: 233).

Second, achieving reasonableness is based on an understanding that decision makers ought to have choices to exercise control over their lives; that is, they practise a particular kind of liberty (freedom) accepted and supported by all those involved in the decision making process (Jarvis, 1998: 95). But what kind of liberty seems to be the most desirable to make sense of political decision making vis-à-vis a shared compromise? Berlin's (1969: 131) view of positive liberty seems to be the most appropriate kind of liberty, one that can ensure the validity of reasonableness.



Central to positive liberty is the notion that human beings are reasonable, that is, self-directing and self-determining beings, who possess an awareness of and an ability to deal with their political situation. Reasonableness is, according to positive liberty, a way of attaining liberation. When the individual rationally analyses, understands and then takes appropriate action, such an individual has acquired self-mastery and is liberated. Berlin (1969: 131) explains it as follows:

I wish to be the instrument of my own, not of other men's (women's) acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes, which are my own, not causes which affect me, as it were from outside. I wish to be somebody, not nobody; a doer – deciding, not being decided for, self-directed ... . This is at least part of what I mean when I say that I am rational, and that my reason distinguishes me as a human being from the rest of the world.

But taking appropriate action based on reasonableness does not mean that one can do only what one wants to do, because this could seriously curb the freedom of others. Here positive liberty undermines the notion of individual freedom, unhampered by the interference of other human beings, that is, negative liberty. Whereas negative liberty limits the control of others to infringe on the individual person's freedom, positive liberty is concerned with "what" or "who" should interfere with the individual's activities. Positive liberty is concerned with the individual's "higher self" as the source of control, that is, it aims to increase the individual's willing enactment of one's own decisions and



actions in life, otherwise a person is not free. Hence political decision making appeals to the notion of positive liberty identified with the idea that human beings are by nature rationally self-controlling and self-directing. Berlin (1969:136) emphasises this as follows:

The essence of men (women) is that they are autonomous beings – authors of values, of ends in themselves, the ultimate authority of which consists precisely in the fact that they are willed freely – then nothing is worse than to treat them as if they were not autonomous, but natural objects ... .

Third, the idea of political decision making as a process concerned directly with the pursuit of reasonableness, following Taylor (1985: 139), implies that one has to communicate clear meanings to others. In other words, reasonableness ensures that our political interpretations and knowledge are articulated to others who may be interested in our perceptions and perspectives in a clear, logically consistent and unambiguous manner (Taylor, 1985: 139). Consequently, the transforming of our experiences into reasonableness heightens the importance of our interpretations and constructed meanings as we seek to improve our political situations and contexts. Hassard (in Hassard & Parker, 1993: 5) argues that when we engage reasonably in political decision making, we involve ourselves in dynamic meaning making within which we are agents of change who suggest possibilities for new things.



Fourth, through reasonableness human beings individually and collectively articulate political decisions which reject arbitrariness. When one engages in political decision making, one does not do so as a solitary individual but as a bearer of a particular political identity through shared experiences which cause one to reasonably reject arbitrariness such as bias, one-sidedness, prejudice and dogmatism. In this way, engaging reasonably in political decision making offers space for participants to “develop their voices and articulate their needs if they have their own spaces rather than if they are absorbed in a consensual overarching public sphere” (Hernandez, 1997: 57). In a different way, through reasonableness people in deliberation attempt to reach agreement by appealing to more than just the distribution of power among parties but rather, that they take each others’ interests into account “not merely to advance their own good but in order to advance everyone’s good” (Christiano, 1990: 161).

Fifth, a discussion of reasonableness invariably invokes some reference to being impartial, that is, being unbiased or unprejudiced. In political decision making impartial reasonable activity usually brings into focus a discussion of objectivity identified with what Elliot (1998: 126) calls private, public and objectivity. Private objectivity stresses the importance of attaining certainty and universal validity, that is, “truth”. A person who is unwilling to accept that reality is not in the minds of people but “out there” independent of the value judgments of people, is said not to be objective and, hence, not reasonable. Elliot (1998: 126) notes that:



Private objectivity is predictable primarily of persons, secondarily of judgments: a person is objective if his state of mind in making a judgment is disinterested, i.e. if his judgment is not influenced by irrelevant factors of a subjective mind, especially the passions and the will.

This kind of private objectivity in relation to reasonableness seems untenable for the reason that human beings do not exist independently of their subjective “forms of experience”.

Public objectivity, on the other hand, breaks with private objectivity in the sense that “truth” is not universally valid and the source of “truth” lies not with the individual, but with each particular community or society, referred to by Elliot (1998: 126) as “collective subjectivity” – a view that I would refer to as a form of relativism. But does this mean that we would necessarily avoid bias and a situation where everything goes? Relativists believe that there are no universal truths. For them, all truths would be allowed expression and full consideration. Bernstein (1983: 11-12) sums up the position of public relativism with reference to human beings, by claiming that for relativists:

... there is a nonreducible plurality of such schemes, paradigms (cognitive frameworks), and practices; there is no substantive overarching framework in which radically different and alternative schemes are commensurable – no universal standards that somehow stand outside of and above these competing alternatives.



What this means, is that political decisions must be understood relative to a specific conceptual scheme or practice. Relativists claim that there are no universal truths; for them all “standards” are relative to the particular context. Both these claims contain within them universal terms like “no” and “all”, reflecting a universal truth, but also seem to claim that this very statement has universal validity. So the relativist argument is self-refuting since relativists state that there is no universal truth. They appeal to the same “standards” they so wish to refute. For this reason, “collective subjectivity” seemingly does not engender an impartial form of reasonableness.

I shall now give attention to the notion of objectivity as opposed to private and relativist “truth” claims. For Elliot (1998: 139) if we want our political discourses to be objective, we should consider fostering reasonableness “free from all arbitrary constraints” through the social, inter-subjective construction of meaning. Elliot (1998: 139-140) claims:

All the participants (in political discourse) would have the same right, and in practice an equal chance, to begin a discussion and to keep it going, so that no opinion or point of view would be denied expression and full consideration. Each participant would be free to initiate a movement from the existing level of discourse to a more fundamental level, and to call into question the conceptual framework originally accepted or presupposed. Each would be free also to initiate enquiry



into the genesis of existing knowledge, and even to question the existing concept of knowledge (and political decisions).

In a different way, developing objective meanings is a practice of social relation or inter-subjective action whereby individuals in a society or community do not just have a given set of ideas or goals to which they subscribe such as might be envisaged through predetermined political outcomes. Inter-subjective political decisions are not the property of individuals in a society, but are “constitutive of the social matrix in which individuals find themselves and act” (Taylor, 1985: 36). Thus, inter-subjectivity implies that human beings in society have a common discourse shaped by the right and equal chance to initiate and to “call into question” their shared political practices.

Sixth, reasonableness demands that human beings pay close attention to unique and specific aspects of every context. By implication, reasonableness means that no single political decision will be useful in the same ways in all situations. In this regard, Hermes (1998: 158) posits that (political) discourse’s emphasis should shift from discourse for discourse’s sake to discourse “that serves a specific purpose or need of the community within which it is situated”. In a different way, reasonableness implies that political decisions have to be relevant and socially accountable “primarily by supporting the economy and promoting the quality of life of its citizens” (Gibbons, 1998: 1). Moreover, reasonableness also guides political decision-making by using reflexive and continually changing procedures of political discourse that act as



a “situated response” (Hermes, 1998: 157). Reasonableness engenders political decision making as a “recursive process”, that is reflexive activity specific to the culture, the problems, and the dynamics of a particular political context. Taylor (1985: 37) links reasonableness to being attuned with society and to socially constructed meanings. In this way, reasonableness implies that political decision making is no longer a self-contained activity carried out in “relative institutional isolation”, but involves, what Sartori (1987a: 226) describes as interaction between those who have “intense” political views and other views “not equally intense”.

Seventh, reasonableness is linked to clearly expressed articulations free from inconsistency. Taylor (1985: 137) accentuates this notion of reasonableness as follows:

We have a rational grasp of something when we can articulate it, that means, distinguish and lay out the different features of the matter in perspicuous order (that is, reasonable articulations devoid of inconsistencies).

My emphasis is on Taylor’s notion of “perspicuous order”. He uses this notion as referring to reasonably expressed articulations devoid of inconsistencies. And, when people engage in political decision making they articulate their views and opinions about problems in a consistent and coherent way, their articulations make decisions transparent and illuminating. Hence, when their political articulations clarify practices in such a perspicuous way, they are



reasonable. In a different way, reasonableness constitutes the capacity in human beings to articulate expressions in a consistent spirit, where consistency refers to the articulation of points of views in a non-contradictory manner.

Eighth, the idea of making reasonable political decisions provides an important constraint to political discourse: the necessity for discourse to proceed in relation to impartiality, non-arbitrariness and consistency, even if a person or group introduces a "new vocabulary" which is incommensurable with another person's view. This shows the necessity of respect for evidence and people to proceed, even if one person (or group) justifiably introduces a political viewpoint incommensurable with prevailing ideas. To exclude people from political decision making or by denying them participation is to show disrespect for them and to "stifle rational deliberation of competing conceptions of good lives and good societies" (Gutman, 1998: 34). Gutman (1998: 34) argues that the idea of respect for people is an important virtue of reasonableness for the reason that it:

... prevents the state, and all groups within it, from denying anyone an educational (political) good on grounds irrelevant to the legitimate social purpose of that good (in this instance political decision making).



### **5.2.3 Political accountability and inter-subjective deliberations**

Deliberative democracy also involves the capacity of people to be attuned with “the order of things”, that is, to exercise political accountability that citizens (political decision makers) share in inter-subjective deliberations for the reason that “the order of things” are linked to the notion of intersubjectivity (as argued for previously). The question arises: What makes political decisions attained through inter-subjective deliberations politically more accountable than those gained by absolute majority rule? Under absolute majority rule, “the majority wins all, the minority loses all, and the majority can be said to gain, with respect to whatever is at stake, what the minority loses” (Sartori, 1987a: 230). In other words, a “winner takes all” majority does not put to efficient use the rational power of deliberations, and if anything, counteracts such deliberations. For example, minority political groups (numerically inferior) might have reasonable and justifiable arguments in support of political decisions. Yet, these arguments are overlooked since political decisions are decided by a majority vote. Sartori (1987a: 231) correctly asserts “(a) winning majority that always wins builds up ... an intense, frustrated minority of regular losers, which is likely, in turn, to slow down the (political) proceedings, to engage in obstructionist rather than cooperative tactics, and in the end to heighten the overall decisional costs to an unbearable point”. In the need then, deliberative advantages offered by a democratic framework would be lost.



Inter-subjective deliberations shun absolute majority rule, seek to maximise majority and minority participation in political decision making processes through representation, and allow space for consent to minority claims. In summary, Sartori (1987a: 237) posits that a process of political deliberation instead of absolute majority rule can be credited with the following merits:

- (a) Optimal decision making through “reasoned” discussion;
- (b) Account for the unequal intensity of majority and minority preferences;
- (c) Allow for a drastic reduction of external oppression of minorities by majorities at minimal increase of the decision making costs;
- (d) Produce positive-sum outcomes for the collectivity at large, that is, all participants (majorities and minorities) stand to gain from the political decisions (on condition that options are, to some extent, compatible); and
- (e) More intensely articulated minority claims stand a good chance of being consented too.

Hence, deliberative democracy inspires inter-subjective deliberations in which absolute majority rule is replaced by collaborative compromising rule. It is my contention that the working principles of compromising rule depart from non-majoritarianism and a concern with marginalising minority freedoms embedded in liberal thought. A compromising political decision making approach not only seems democratically feasible but can also ensure better political accountability. I want to echo the view of Dahl (1989: 162) who claims



that by “rejecting (absolute) majority rule, the people in democratic countries have not necessarily violated the democratic process or the values that justify it. For under different conditions, the democratic process may properly be carried out under different rules for making collective decisions”. And, these rules of collective political decision making need to be entrenched in deliberative democratic discourse which seriously opposes the marginalisation of minority freedoms, as well as a liberal concern with non-majoritarianism. Deliberative democracy calls for shared, reasonable and inter-subjective deliberations, which take into account legitimate minority and majority claims, yet, allows for the temporary use of majority rule to complement deliberation in the event of political deadlock and unresolved conflict. In essence, liberalism conflates majoritarianism with absolute majoritarianism and its concern with non-majoritarianism is not realistic. Deliberative democracy does not regard majority rule as threatening if used only as a temporary procedure to avoid political impasses *after* deliberations have not achieved desired results.

### **5.3 EQUALISATION OF OPPORTUNITIES AND ESTABLISHING CONDITIONS OF JUSTICE FOR ALL**

In this section I shall address how deliberative democracy can enhance the equalisation of opportunities idea propounded by liberals in South Africa without being concerned about undermining White privilege and just the implementation of affirmative action procedures. In the first place, I agree with the liberal rejection of complete equality on the part of all citizens, since it conflicts with the differential idea of justice that provides for “allowable



differences” as discussed earlier in this chapter. Illiterate and politically uninformed citizens cannot “completely” and equally deliberate with informed citizens on matters of public concern. Neither can illiterate citizens equally enjoy “all rights” such as to deliberate on political issues that affect them if they are already excluded due to an inability to justifiably articulate their arguments or points of view. The egalitarian principle that “everyone” should be subjected to “full and equal enjoyment of all rights and freedoms” is overwhelmingly concerned with individual privilege and aspiration, which seem to ignore that people possess different levels of understanding and knowing. Illiterate citizens can equally enjoy their right to public deliberation if they can be allowed to take a politically informed person as proxy who in their absence can represent their political concerns and aspirations. In this way better equality can be ensured for the reason that citizens do not have to deliberate on public matters as complete “equals” with their own choices, aspirations or points of view but rather, as citizens whose interests can be represented and enhanced by proxy. By implication, complete equality of individuals on the basis of “equal” political participation can actually inhibit rather than advance collective action.

However, my potential critic might argue that the South African multi-party democratic system already operates on the basis of representatives having been elected to government and who serve the legitimate interests of the majority of citizens.<sup>43</sup> However, many of these representatives do not necessarily perform their political roles as proxies for the reason that, in the



first place, such electors seem to be distanced from the constituencies whose interests they have to represent, particularly because of the system of proportional representation. Moreover, the ANC government is undoubtedly committed to expanding educational facilities, job creation programmes and health care to rural areas. Yet, service delivery in these areas remains lacking as a consequence of local government representatives being “even further removed from the rural citizenry” (Koelble, 1999: 266) which in turn, brings into question any genuine participation of individuals as proxies.

This brings me to a discussion of Taylor’s notion of distributive justice, which allows for the provision of equal opportunities for “disfavoured” citizens who have been “disadvantaged by unfair discrimination”. Undoubtedly the majority of South African citizens who have been unfairly discriminated against along racial lines warrant equality of opportunity whether in terms of employment, education, economic prosperity, health care, property ownership and housing. Like liberals, I agree. However, does this necessarily mean taking away certain individuals’ resources in order to promote the welfare of others, in this instance, removing resources from advantaged (White, Coloured and Indian minorities) to promote the welfare of the disadvantaged black majority? I do not think so for the reason that equal opportunities within a deliberative democratic framework has an enabling and caring function whereby others (in this case, the disadvantaged) should be encouraged and assisted through legislative measures (for example, affirmative action, land restitution and educational development) to cultivate their capacities in order to improve their

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<sup>43</sup> Parallel to this argument, I also criticise the political weakness of proportional



situation. Only taking away resources from advantaged White minorities would not necessarily enhance the welfare of the disadvantaged majorities unless the latter are encouraged and supported to improve their capacities. It is for this reason that the equalisation of opportunities idea does not have to be viewed by liberals as a political process which might erode the socio-economic strength of the advantaged White minorities.

In fact deliberative democracy demands that minority advantaged citizens should at least be assured minimal security from internal legislative measures which might cause them to relinquish their resources, for instance, land and other economic assets. The Constitution clearly speaks of legislative measures, which need to be designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination. Yet, I share the liberal concern that if employment opportunities along affirmative action procedures continually favour majorities who have previously been discriminated against, White minorities who might legitimately qualify for employment opportunities might feel that they are discriminated against.<sup>44</sup> My argument is not in favour of retaining minority privilege (particularly those people who have been advantaged in the past) as my potential critic might purport, but rather, that all people (whether minorities or majorities) should be assured of at least minimal security from, in this instance, unfair discrimination. Unless people are assured of minimal security vis-à-vis their status as minorities and majorities, it would be difficult to conceive that the state would not “unfairly discriminate directly or indirectly against anyone ...

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representation and the concomitant absence of a constituency-based electoral system.



(on the grounds of) race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age disability, religion, conscience, belief, culture, language and birth" (The Constitution, 1996: 5).

In this regard, I find Walzer's (1983: 14-19) distinction between simple and complex equality extremely useful, particularly in relation to the idea of providing minimal security to minorities. On the one hand, simple equality involves everyone having the same resources, that is, investments, property, education, and so on. In South Africa simple equality is unattainable for the reason that some citizens whether minorities or majorities would always have more resources than others – a society of equals is "not a lively possibility" (Walzer, 1983: 20). Even if resources were to be equalised "talented men and women will enlarge the resources available to everyone else ... (again giving rise to) attendant inequalities" (Walzer, 1983: 14). In other words, it is impossible to imagine a society in which "everything is up for sale and every citizen has as much money as every other" (Walzer, 1983: 14). On the other hand, complex equality means "that no citizen's standing in one sphere or with regard to one social good can be undercut by his (her) standing in some other sphere, with regard to some other good" (Walzer, 1983: 19). Thus, disadvantaged majorities may have fewer resources than advantaged minorities, which make them unequal in the sphere of social life. However, majorities and minorities will not be unequal as long as the less dominant resources of majorities do not constrain their efforts to better opportunities in any other sphere whether education, health care, employment, and so on. In

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<sup>44</sup> Of course, in countries such as the US affirmative action has been instituted to favour



this way, complex equality seems to be an enabling good attuned to the notion of deliberative democracy, which can avoid the practice of unfair discrimination in relation to majorities and minorities.

Of course the argument can be used that disadvantaged majorities are in any case inhibited by economic constraints to enjoy better opportunities in comparison with advantaged minorities. But then, as has already been pointed out earlier, legislative measures have to be taken (without discriminating unfairly against minorities) which can hopefully ensure a more equitable distribution of resources in order to assist the disadvantaged majority. This argument seems to be in line with Rawls' (1993: 291) second condition of justice, according to which inequalities between advantaged minorities and disadvantaged majorities are justified only if they could bring the greatest possible benefit to those most disadvantaged and simultaneously prevent unfair discrimination against advantaged minorities. This brings me to a discussion as to why affirmative action efforts are not entirely sufficient to redress the socio-economic imbalances in South Africa. Instead, I shall argue that deliberative democracy with its emphasis on building capacity through co-operation can ensure benefit to all South African citizens (majorities and minorities). In addition to the qualified use of affirmative action measures, more efforts should be made to find ways in which all South Africans would be better off, in particularly those who need it most. For instance, since the poorest of the poor are predominantly found in rural areas (mostly women and youth) a sustained effort to help the rural poor to help themselves could



contribute towards solving problems of marginalisation and inequality. Ingham (in Jafta, 1998: 332) posits that such an attempt could conceivably include measures to "increase the quantity and productivity of assets owned by the poor; increase the prices of services yielded by assets sold by the poor (including their labour time), and increase the volume of market sales by the poor". The biggest obstacle to the efficient implementation of rural development programmes seems to have been a lack of capacity in delivery systems, that is, poor infrastructure coupled with provision of services which hamper rural productivity, access to markets and limited access to financing facilities, agricultural support services and skills capacity development. One way to address this problem may be to cultivate better co-operation amongst all levels of government, as well as the intended beneficiaries of such programmes which, as deliberative democracy suggests, will expand participation and delivery and hopefully spawn capacity development and opportunities for investment amongst the rural poor (Jafta, 1998: 332). Better co-operation invariably involves the promotion of local democracy through worker participation, and the empowerment of the marginalised rural poor. Cultivating the culture of participation, for instance amongst the rural poor, is at the heart of the stated objectives of deliberative democracy.

In summary, deliberative democracy engenders a notion of justice, more specifically distributive justice, which does not encourage one group of people or individuals to dominate unfairly over another group of people or other individuals, in this instance, advantaged minorities over disadvantaged majorities and vice versa. Deliberative democracy challenges and undermines



notions of justice and equality which undermine minority and majority freedoms and rights for the reason that it would be difficult to provide minimal security and to protect the legitimate rights of all citizens (minorities and majorities). As has been argued for, deliberative democracy challenges the liberal assumption that the equalisation of opportunities idea safeguards White privilege and that equalisation can only be achieved through affirmative action efforts. Rather, equalising opportunities for the disadvantaged in particular aims to improve the conditions of both minority advantaged and majority disadvantaged since a South African society where the minority enjoys a privileged position at the expense of the majority disadvantaged cannot ensure political, social and economic stability for *all* citizens.

#### **5.4 PROCEDURAL RIGHTS PLUS SUBSTANTIVE RIGHTS EQUAL SOCIO-ECONOMIC JUSTICE**

To begin with, a person is said to have a right, to be a rights holder, "when he (she) has a claim, the recognition of which is called for – not (necessary) by legal rules – but by moral principles, or principles of an enlightened conscience" (Feinberg, 1972: 67). Feinberg clearly distinguishes legal or procedural rights from those rights which embed moral aspects, that is to say, substantive rights. And, a person is said to possess rights, to be a rights holder when he (she) has a legitimate claim to both procedural and substantive rights. Unlike the liberal tradition which predominantly focuses on the procedural rights of people, deliberative democracy makes an argument for procedural rights plus substantive rights. In this section, I shall use an



understanding of procedural plus substantive rights whereby individuals conceive of themselves as autonomous holders of rights which does not preclude them from the opportunity to be genuinely committed to a sense of community. This explanation of procedural rights plus substantive rights finds support in the ideas of Tomasi (1991: 536) who painstakingly argues that rights are not always expressive of alienation and that liberalism needs to be committed to the claim that individuals should always bear their rights (procedural plus substantive) resolutely before them, that is, "for (the) profound expression of community". I shall argue (later on) that the liberal idea of procuring only procedural rights for the less advantaged would not necessarily ensure that socio-economic justice would be achieved in South Africa. In my view, procedural rights only would further entrench White privilege which in turn, can lead to a kind of self-attentiveness amongst the more advantaged citizens completely oblivious of their communal responsibilities towards the less advantaged.

Liberals would argue that the Bill of Rights (chapter 2) of the Constitution advocate the procurement of citizens' procedural rights with reference to sections 7 (Rights), 9 (Equality), 10 (Human dignity), 11 (Life), 14 (Privacy, which include: the right not to have their person or home searched, their property searched, their possessions seized, or the privacy of their communications infringed), 19 (Political rights), 23 (Labour relations, which include: the right of every worker to fair labour practices, to form and join a trade union, to participate in the activities and programmes of a trade union, to strike, to form and join an employers' organisation, and to participate in the



activities and programmes of an employers' organisation), 24 (Environment, which include: the right to an environment that is not harmful to their health or well-being, and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures), 25 (Property, which include: the right not to be deprived of property except in terms of law, and the right to restitution of property or to equitable redress if a person or community has been dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws and practices), 26 (Housing, which include: the right to have access to adequate housing and the state must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right), 27 (Health care, food, water and social security, which include: the right to have access to sufficient food and water, and social security, including, if they are unable to support themselves and their dependents, appropriate social assistance), 28 (Children), 29 (Education), 36 (Limitation of rights) and 38 (Enforcement of rights). However, whether these rights would in fact be substantive depends to a large extent on the socio-economic development of every human being (Freeden, 1990: 492). In other words, the procurement of substantive rights for people regards human development and social protection as complementary to their procedural rights vis-à-vis constitutional matters.

My question is: How is the notion of procedural rights without substantive rights supposed to operate within the context of South Africa's liberal democracy? Take, for example, section 29 that "Everyone has the right to a basic ... and further education". My emphasis is not on the procedural right to



further education as a right to tertiary education but, rather, the “furthering” of the individual’s education in relation to the production of knowledge or ideas through intellectual pursuit, that is, his (her) substantive rights. An individual who has been endowed with the creative and imaginative talent of inventiveness not only has the procedural right to develop such a capacity through her own exertions and efforts, but also a substantive right through self-attention in order to attain an appropriate intellectual, economic, social and (perhaps) political status. For, after all, the individual has a substantive right to develop her natural abilities and talents. Thus, arguments against the substantive exercise of intellectual activity on the part of a self-assertive, autonomous individual possessed of the capacity for inventiveness seem absurd. However, if the individual in a self-determining way insists on her substantive rights to invent or do harmful and degrading things, such as making a device in order to inflict harm on people, the possibility of slipping down the slope of selfishness when one is totally obsessed with the notion of substantive rights to make bad choices, becomes quite real. In this way, an individual might not show sensitivity to the well-being and interests of others. In any case, as Gyekye (1997: 69) correctly argues, “one’s right not to be harmed imposes a responsibility on others not to harm one”. And, for the reason that “responsibility” involves “a caring attitude or conduct that one feels one ought to adopt with respect to the well-being of another person or others persons ... (which) include the responsibility to help others in distress, the responsibility and concern for the needs and welfare of others, the responsibility not to harm others” (Gyekye, 1997: 66), the pursuit of substantive rights has to be attained on the recognition of others’ rights.



Hence, what a deliberative democratic ethic would enjoin, is a dual imperative, that is, possessing both procedural and substantive rights that will reflect the development of the individual's personal well-being and capacities through self-attention, together with the necessary requirement that the individual be in a position to fulfill her responsibilities to others. In this regard, Gyekye (1997: 69) aptly posits:

Yet, in paying due regard to responsibilities people feel they owe to the community and its members, the moderate communitarian political and moral theory does not imply, by any means, that (substantive) rights are not important; nor does it deny responsibilities to the self ... As an autonomous, self-assertive being, the individual should, within limits, care for her own well-being or needs just as she cares for the needs of others. Altruistic concerns cannot obliterate responsibilities to self. This is because the concern for the interests and needs of others cannot imply dissolution of the self ... (since) the individual has a life to live and so must have plans for her life and must see to the realisation of those plans ... .

I want to come back to the claim made earlier that the liberal idea of procuring only procedural rights would not necessarily ensure that socio-economic justice be achieved in South Africa. I shall argue that procuring only procedural rights for the less advantaged would further entrench White privilege which in turn, can lead to a kind of self-attentiveness amongst the more advantaged citizens completely oblivious of their communal



responsibilities towards the less advantaged. If the majority less advantaged citizens in South Africa could only possess procedural rights, say, in relation to housing, social services and rudimentary amenities, then such rights can be defended according to the rule of law. But this does not necessarily mean that such a majority would actually possess or be granted substantive rights. And, if the majority less advantaged does not possess substantive rights which can lead to the upgrade of the quality of life in impoverished areas as a consequence of high government or private sector investment, political progress towards procuring their legitimate basic rights would be significantly impeded. In such a context the political rights of majority of the country's underprivileged might be difficult to protect even with "a justiciable Bill of Rights" (Lemmer, 1987: 395).

Given the extraordinary service backlog South Africa faces, procuring procedural rights for the majority disadvantaged would not translate political rights into social rights, thus undermining substantive rights. While the present ANC government has achieved some fairly impressive delivery targets, the quality, cost-effectiveness, and sustainability are increasingly in doubt. For instance, in the case of housing, delivery has been of poor quality, plagued by inflated costs, rampant corruption (often involving high-placed government officials), and poorly integrated with other developmental objectives such as spatial desegregation (Heller, 2001; 147). The point I am making is that possessing mere procedural rights to services without substantive rights would do little to redress the severe socio-economic inequalities that characterise South African society. Another aspect which brings into question



the act of service delivery, in this instance, housing delivery, involves the poor quality of its process. The fact that delivery must take precedence over process has been rationalised on the basis that the majority disadvantaged has a procedural right to social services. Yet, the fact that the quality and sustainability of these services are increasingly in doubt, suggests that the majority disadvantaged does not actually enjoy substantive rights to quality services. In addition, the lack of substantive rights on the part of a disadvantaged majority also brings into question the absence of effective community participation in the process of delivery in order to secure sustainable services. Heller (2001: 147) refers to the case of water delivery whereby two-thirds of the projects put in place since 1994, had fallen into disuse in the absence of effective community participation. Deliberative democracy with its emphasis on procuring procedural plus substantive rights not only offers a framework to redress the staggering socio-economic inequities of apartheid, but also a neo-liberal agenda to mobilise participation and to engage citizens and government in sustained consultation, that is, much more deliberation.

## **5.5 SUMMARY**

In summary, with regard to closing the gaps within the liberal tradition in South Africa, my argument was as follows:

Firstly, I have argued that a deliberative democratic framework can frame an understanding of majority rule, whereby political decision making needs to be



predominantly a corollary of deliberation and engagement with majoritarianism being used as a temporary compromising mechanism to avoid any kind of political stalemate. Political decision making cannot exclusively be the result of a superior numerical advantage through an unqualified "winner-takes-all" majority vote which continuously marginalises and excludes minority points of view. Majority rule as opposed to absolute majoritarianism does not have to be considered as a threat to South African politics as liberals would like us to believe for the reason that it provides a temporary procedure to counteract political deadlocks with the distinct aim that political decision makers revise, rethink and reconstruct better and more defensible arguments in a dynamic, reflexive and recursive way. The point is, majority rule does not mark the end of deliberation, but merely a temporary compromising "break" for political decision makers (minority and majority groups) to come up with more credible political justifications. Secondly, deliberative democracy challenges the liberal idea that equalisation of opportunities along the lines of affirmative action measures are necessary to safeguard White privilege. On the one hand, equalising opportunities aims to address the welfare of all citizens, whereby the worst off has to benefit the most. On the other hand, affirmative action along race and gender attributes only as opposed to other constructive ways to improve the living conditions of the majority disadvantaged can have several negative side-effects which can lead to racial polarization in an already divided South African society. Finally, deliberative democracy reconstructs the liberal idea of procuring procedural rights only to that of procedural rights plus substantive rights which in turn, can better redress the socio-economic injustices of South Africa's inherited past.



Of course, deliberative democracy also has its critics. Benhabib (1996: 7) claims that defenders of the "agonistic model" of democratic politics such as Mouffe and Barber object to how all deliberative democrats place the rules that structure deliberation beyond "contestation". I agree with her response when she claims that while fundamental principles of deliberative democracy must be at least partially contestable, "participants must recognise one another's entitlement to moral respect and reciprocity in some sense ... (of which) the determination of the precise content and extent of these principles (without being oblivious about conflict and the politics of difference) would be a consequence of the discourses themselves" (Benhabib, 1996: 79) (I shall address some critiques of deliberative democracy in detail in chapter 5).

In the final chapter, I shall provide a philosophical critique of deliberative democracy with the intention to show that the concept is not without contradictions and ambivalence. Despite these limitations, deliberative democracy does enhance the liberal position on community and democracy to one that is more feasible to South Africa's quest to deepen the spirit of democracy particularly in relation to achieving a high degree of citizenship.



## **CHAPTER 6**

### **DELIBERATIVE DEMOCRACY AND CITIZENSHIP**

#### **6.1 INTRODUCTION**

My arguments in defence of deliberative democracy as an attempt to bridge the gaps within South African liberalism are located within the following constitutive goods: inclusiveness, in the sense that citizens of the community engage equally in political decision making; rationality, in the sense that decisions are achieved through the discourse of deliberation and consensual compromise; and legitimacy, in the sense that every citizen has some understanding as to why certain decisions have been taken even if he or she was not entirely convinced by the arguments offered. Although deliberative democracy seems to be best suited to reconstruct liberalism in South Africa, the concept does not escape powerful criticism. In this chapter I shall explore some of the weaknesses associated with deliberative democracy before moving on to a discussion of how deliberative democracy can cultivate citizenship in South African society. My contention is that citizenship is a unifying force which can hold a diverse South African society together along the lines of communitarianism, that is, "reasoning together with others" in order to secure the legitimate interests of most people in political decision-making.



## 6.2 CRITICISMS OF DELIBERATIVE DEMOCRACY

Critics of deliberative democracy justifiably ask the following question: Is it possible for large and complex societies to be governed by deliberative associations? Now if one considers that deliberative democracy requires ample time for reflection, listening and discussion it would seem as if participants who engage in deliberation would require unconstrained time and opportunity to achieve political outcomes. This is so for the reason that one cannot assume that public deliberations would always result in unanimous decisions. The point is, deliberative democracy with its emphasis on consensus and the force of the better argument is time consuming; that a high degree of consensus or unanimity on public issues could only be attained at the cost of silencing dissent and curtailing minority viewpoints (Benhabib, 1996: 77); and that a high level of education and economic welfare is presupposed if such a system can be viable (The latter criterion will be discussed later on with reference to minimum and realisable social conditions which need to be put in place in order for a deliberative democracy to be exercised).

My response to this is that though a deliberative democracy cannot be easily instantiated, it can nevertheless be approximated sufficiently closely to provide a framework for democratic participation that can address the looming dangers of absolute majoritarianism discussed throughout this dissertation. Deliberative democracy, following Habermas, must employ a majority decision procedure aimed at achieving a consensual compromise among participants



engaged in deliberative politics. In other words, deliberative democracy does not in any way demand that discussion and deliberation should continue unrelentingly without reaching some sort of consensus, albeit a temporary one. One of the primary aims of deliberative democracy is to achieve consensus amongst most, if not all, contending parties. In the event that consensus is not attained on a particular political issue, parties can agree to reach a temporary decision to avoid political deadlock, subject to the condition that the decision has to be reviewed and even rescinded (if necessary) in the light of more and better arguments. The point is that deliberative democracy strives to attain more informed and better political decisions than any of the systems or procedures associated with the democratic ideal. In fact, not using deliberative democracy in political decision making can make oppositional politics even more cumbersome than the alleged time-consuming spirit of deliberation, since if oppositional and minority groups already know that they are going to be outvoted in decision making then they might prolong matters through unnecessary and sometimes unjustifiable delaying tactics. Therefore, the argument that deliberative democracy is perhaps too time-consuming may not necessarily have to hold water.

Moreover, the criticism that a high degree of consensus could only be attained at the cost of silencing dissent and curtailing minority viewpoints does not seem to be fair. The mere fact that deliberative democracy appeals to the notion of consensus does not mean that dissenting views might be undermined. Consensus, certainly in a deliberative sense, means that a shared compromise has been reached amongst most, if not all, contending



political groups about the most appropriate decision for political action. Of course, dissenting voices will always challenge this kind of consensus attained, but then, dissenters can once again prepare better arguments after all parties have reflexively analysed (after an agreed upon time) the political decision on which consensus was attained. In this way, the claim that dissenting voices will be marginalised through deliberative consensus does not seem valid at all. Similarly, the criticism waged against deliberative democracy involving the decision of majority vote which undermines the rationality and legitimacy claims of the discourse does not have to hold sway (Miller, 2000: 143).

Of course, if the decision reached depends on an arbitrary procedure of majority voting then the argument can be used that the emphasis on the weight of the "better argument" is superfluous since political outcomes are ultimately numerical procedures. But then such critics of deliberative democracy seem to ignore what Benhabib (1996: 72) refers to as the reflexive condition of deliberative discourse. This condition of reflexivity requires that a temporary agreed-upon decision reached on the basis of majority voting, should later on be subjected to further scrutiny, questioning re-examination. It is more time-consuming to implement a political decision which had not been subjected to sufficient scrutiny, for the reason that contending political groups might time-consumingly (and legitimately I might add) challenge the decision at a different political level. I refer specifically to the majority ANC party decision to have had the Constitution amended in such a way that it encourages "floor-crossing", that is, political party members can autonomously



decide (without consulting with their constituencies) to change their allegiance to a different party. If prior consensus had been attained on the issue through deliberative consensus, it would not have been so time-consuming to refer the matter to the Constitutional Court.

Moreover, Elster (in Christiano, 1998: 167) argues that a deliberative democracy demands “an unusually high degree of participation from citizens” and that it would be unrealistic to assume that “all will participate equally extensively”. He contends that in certain circumstances deliberation “may go on far too long in that the quality of decisions may deteriorate” (Elster in Christiano, 1990: 167). In the first place, a deliberative democracy invokes the notion of proxy which does not assume that all citizens participate “equally extensively”. The idea of proxy at least ensures democratic participation on the part of most citizens. Also, the criticism that the quality of political decisions may deteriorate does not make sense if the point of deliberation is compromise since people are “bound only by the results of deliberation and by the preconditions for that deliberation” (Cohen, 1986: 22). In essence, a deliberative democracy does offer South Africa a politically better accountable framework which can at least reconstruct some of the gaps left by the country’s liberal tradition.

By far the most powerful critique against deliberative democracy is the argument that the discourse is biased against historically disadvantaged groups, for example, South Africa’s majority poor and illiterate citizens. Understandably, a discourse which demands rational articulation and



justification of arguments does favour citizens who possess the skills of eloquence, persuasive speech and rational reflection. In this way, deliberative democracy would seem to privilege those citizens who possess "speech that is assertive and confrontational" (Miller, 2000: 146). Thus, it could be argued that deliberative democracy does not protect citizens' basic rights and freedoms, in particular those who have been disadvantaged in terms of education. Benhabib (1996: 78) posits that deliberative democracy requires that each individual possesses the same symmetrical rights to various speech acts, to initiate new topics and to ask for reflection about the presuppositions of the conversations. However, citizens who do not possess such deliberative skills might justifiably claim that deliberative democracy is elitist and exclusionary. But then, as I have argued for in chapter 4, deliberative democracy also emphasises that a person fulfills the role of "proxy" as opposed to all citizens engaging in public deliberation as complete equals. The point I am making is that although it does seem as if norms of deliberation are loaded against the educationally disadvantaged who might not always provide coherent arguments in defence of political points of view, they have the prerogative to appoint someone as "proxy" who possesses deliberative skills to persuade people of the merits of their proposed political alternatives. Hence, the argument that historically disadvantaged groups are in fact excluded from deliberative politics does not hold water.

However, my potential critic might justifiably claim that my argument for deliberative democracy seems unconvincing since it neglects the social conditions required for effective fulfillment of constitutive practices of



deliberative democracy which include, reasoned (rational) and collective discussions through debate, reflexive questioning and interrogation. In other words, my potential critic's concern might not be to question the capacity of reasoned discussions and reflexive argumentation to further reconstruct a credible notion of community and democracy in South Africa, but rather whether deliberative democracy can occur without the establishment of realisable social conditions that could develop and sustain it. Taylor's (1985: 190-191) "social thesis" tells us that the capacity to exercise and sustain a conception of the good (in this instance, deliberative democracy) can only happen within the context of realisable social conditions in which people can share their experiences, make autonomous (I would argue deliberative and meaningful) choices and organise their public spaces. Like Taylor, Rawls (1971: 563) and Dworkin (1985: 230) also recognise that individual autonomy cannot exist outside social conditions<sup>45</sup> that provide public spaces for deliberation and which support the capacity of people to achieve meaningful choices. The lack of minimum and realisable social conditions often seem to limit the potential for deliberation (Bohman, 1996: 109). I shall now focus my discussion on the challenge to establish minimum and realisable social conditions in order for deliberative democracy to be exercised and perhaps sustained in South Africa.

My contention is that the nurturing of deliberative democracy in South Africa would be difficult if it does not address questions about minimum and realisable social conditions – whether it involves increasing at least the level

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<sup>45</sup> They particularly recognise and discuss the role of the family, schools, and the larger



of education of the population, economic empowerment of citizens, time availability to engage in deliberative activities and the interest of politicians to foster such practices among their constituencies. For purposes of this dissertation I shall consider three conditions for the exercise of deliberative democracy: one about the need to improve organised public spaces or shared forums that provide people with opportunities for collective inquiry; a second about the need to establish social unity among people with different and competing ways of life; a third about the need to secure basic social rights.

First, organised public spaces (or institutions) according to Crowley (1987: 282) refer to those spatial locations below the level of the state in which people share experiences and language where they "... can discover and test their values through the essentially political (and non-politicised) activities of discussion, criticism, example, and emulation ... (where they) test ideas against one another ... (and) come to understand a part of who they are". Some examples of spatial locations below the level of the state are to be found within and between groups and associations below the level of the state which include, friends, family, religious institutions, cultural associations, professional groups, trade unions, universities and the mass media. Before invoking deliberative democracy, one first needs to encourage people operating in spatial locations below the level of the state to create opportunities for themselves and others "to give voice to what they have discovered about themselves and the world and to persuade others of its



worth" (Crowley, 1987: 295). Bohman (1996: 108) aptly makes the following claim:

In order to be minimally effective in deliberation, a deliberator must be able to initiate public dialogue about an issue or theme, in which his or her reasons may receive deliberative uptake ... (P)ublic actors must have the ability to avoid being excluded from public life and to avoid having their concerns consistently ignored.

By implication, one first needs to improve the forums (institutions) of civil society under conditions in which freedom of speech and association can ensure that individuals make their autonomous choices, collectively share and evaluate their experiences which deliberative democracy (as I shall argue for in chapter 3) value so highly. In short, people in organised public spaces first need to encourage collective activity and shared inquiry, referred to by Rawls (1971: 543) as "free social union with others", before deliberative democracy can be exercised. Deliberative democracy cannot be taken for granted to naturally arise and sustain itself in both state and non-state forums. Instead, its occurrence in society requires secured and organised public spaces in which people come to understand and pursue collective inquiry and autonomous individual choices.

Second, if different groups of people such as to be found in South Africa do not want to stay together in a single state, then no amount of agreement on deliberative democracy will keep a state together. This suggests that the



nurturing of deliberative democracy requires a sense of social unity among different and competing individuals and groups that goes deeper than the sharing of the principles which govern their society. People or citizens must feel that they belong to the same South African society. In this regard, Kymlicka (2002: 257) aptly posits the following:

They (citizens) must have a desire to continue to live together and govern together, and to share the same fate, rather than seeking to form their own separate country, or seeking to be annexed to some foreign state. Social unity, in short, requires that citizens identify with each other, and view their fellow citizens as one of 'us'.

Such a notion of shared belonging can help sustain the relationship of trust and solidarity needed for citizens to accept the results of democratic decisions (Miller in Kymlicka, 2002: 257) and, in the context of this dissertation, the rules of deliberative democracy. The point I am making is that if citizens within a state share a way of life, then they will want to live in a single state, want to govern together, and also accept the legitimacy of deliberative democratic decision making. I agree with Kymlicka (2002: 258) when he makes the point that citizens sharing a way of life will want to make sacrifices for people who not only have different and competing ways of life, for instance, to redistribute resources to the less well-off, since in helping co-citizens they are simultaneously strengthening their shared way of life, and in that sense helping themselves. What underlies this form of social unity is that citizens



share a national identity<sup>46</sup> and yet might share very little in terms of ethnicity, religion, or conceptions of the common good. In essence a deliberative democracy can better be nurtured if a sense of social unity is established which can increase the likelihood that citizens fulfill their obligations towards cultivating deliberative democracy.

Third, it would be difficult to exercise a politics of deliberative democracy if the state does not secure basic social rights to citizens which include the right to move freely, to earn a living, and to receive social benefits, health care and education. In other words, providing basic social rights<sup>47</sup> to citizens would help secure loyalty to a politics of deliberative democracy. For example, state intervention (certainly in South Africa) through legislation has to be aimed at minimising high levels of unemployment in the country. In this way socio-economic injustices rooted in the economic structure of society can be reduced which in turn, could secure large numbers of jobless citizens a right to earn a living, thus enabling them to escape from poverty. The point I am making is that large disparities in people's life-chances and standards of living brought about by the fact that some people have rewarding and fulfilling careers while others do not have jobs at all could poison relations between them (the poor and other members of society) which in turn, may harm people's ability to pursue a politics of deliberative democracy. Similarly, the right to education on the part of all citizens in South Africa should not just be

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<sup>46</sup> Kymlicka (2002: 266) would argue for a considerable 'thinning' of national identity so as to emphasise national unity without requiring cultural assimilation into the hegemonic conception of the good life.

<sup>47</sup> Kymlicka (2002: 329) explains social rights as "the right to gain certain common benefits through common public institutions operating in a common national language, so as to meet basic needs while simultaneously creating a common national identity".



confined to a right to education just to meet some need for rationality, literacy, or knowledge, but also to educate all citizens in a way that will help integrate them into the national culture. The point is, that unless basic social rights are provided to a large part of the population which can increase their economic, social and educational prosperity, a politics of deliberative democracy would be difficult to exercise.

In essence, deliberative democracy can ensure that political decision-making becomes more legitimate since most people (particularly minority or marginalised citizens) would have a chance to have their views heard and considered through non-coercive reasoned discussions. But then, minimum and realisable social conditions have to be met if a politics of deliberative democracy is going to have any real influence in the formation of public opinion and the shaping of political decision making. In the words of Bohman (1996: 105), "(t)he success of a deliberative form of democracy depends on creating social conditions and institutional arrangements that foster the public use of reason".

In summary, I have examined some critiques of deliberative democracy which suggest that the discourse might possibly extend itself broadly enough to be truly inclusive. However, as I have argued for in chapters 3 and 4, deliberative democracy can contribute to eliminate the inefficiencies associated with South African liberalism and also to establish a sense of justice – a goal to which the aggregation of pre-political preferences is a quite incongruent means (Elster in Benhabib, 1996: 85). Of course critics might not agree with all aspects of



deliberative democracy, particularly the consensus-oriented version espoused by Habermas, Rawls' democracy as public reason, and Benhabib's reflexive discourse. However, it cannot be denied that deliberative democracy does offer necessary spaces for discussion among free and equal citizens, particularly spearheaded by Habermas' idea of rational consensus-oriented discourse which challenges the mere aggregation of preferences model of democracy. Elster (1998: 8) recognises skeptical claims against deliberative democracy, yet, simultaneously points out the extensive overlap among conceptions of deliberative democracy, recognising in particular the common good that all conceptions include "decision making by means of arguments offered *by* and *to* participants who are committed to values of rationality and impartiality". It is such a deliberative discourse framed akin to the principle whereby justifiable arguments are offered "*by* and *to* participants" which holds the promise of enhancing the liberal position on community and democracy in South Africa. This discourse of rational argumentation offered "*by* and *to* participants" also brings into play the notion of citizenship which combines ideas of individuality and community necessary to reconstruct liberalism in South Africa. It is my contention that deliberative democracy can cultivate a form of citizenship necessary to lay the foundations for a communitarianism of the left which requires of citizens to be or become practical reasoners – citizens who care and engage collectively in just and reasonable deliberation.

I shall now explore the notion of citizenship, particularly showing its connection with deliberative democracy in cultivating conditions for practical reasoning. To my mind, it is in the exploration of the conceptual and pragmatic



links between deliberative democracy and citizenship where the potential for future and more nuanced research in the area of political philosophy resides. I consider my contribution as another voice making a contribution to this debate and simultaneously offering pathways for future research.

### **6.3 DELIBERATIVE DEMOCRACY AND CITIZENSHIP: A COMMUNITARIAN OBJECTIVE**

In contemporary political philosophy the theory of citizenship seems an obvious candidate to link ideas of individual rights with that of communal sentiments. Kymlicka (2002: 284) poignantly states the following:

Citizenship is intimately linked to liberal ideas of individual rights and entitlements on the one hand, and to communitarian ideas of membership in an attachment to community on the other. Thus it provides a concept that can mediate the debate between liberals and communitarians.

Miller (2000: 82) distinguishes between a liberal and communitarian conception of citizenship. On the one hand, a liberal conception explains citizenship as a set of rights and corresponding obligations people enjoy equally as citizens of a political community. In other words, to be a citizen is to enjoy rights to personal security, to freedom of speech, to vote, and so forth. Correspondingly, as espoused in the work of Rawls, people are obligated to uphold the rule of law, and generally not to interfere with other's enjoyment of their rights. On the other hand, a communitarian conception of citizenship,



while not denying the importance of citizen rights, places more emphasis on the idea that citizens engage actively with others in shaping the future of society through political deliberation. The point about these different views of citizenship is that to be a citizen one must think and act in a certain way: one must have a sufficient measure of "public virtue" (Miller, 2000: 82).

Moreover, interest in citizenship has been sparked by a number of political events and trends throughout the world – increasing apathy and long-term welfare dependency in the United States, the resurgence of nationalist movements in Eastern Europe, the stresses created by increasingly multicultural and multiracial populations in Western Europe, the failure of environmental policies that rely on voluntary citizens cooperation, disaffection with globalisation and the perceived loss of national sovereignty (Kymlicka, 2002: 284). These events indicate that the stability of modern democracies depends not only on the justice of its institutions (for instance, in the case of South Africa on its Constitution, Bill of Rights, Constitutional Court and multi-party democratic system), but also on "the quality and attitude of its citizens: e.g. their sense of identity, and how they view potentially competing forms of national, regional, ethnic, or religious identities; their ability to tolerate and work with others who are different from themselves; their desire to participate in the political process in order to promote the public good and hold authorities accountable; their willingness to show self-restraint and exercise personal responsibility in their economic demands, and in personal choices which affect their health and the environment. Without citizens who possess these qualities, democracies become difficult to govern, even unstable" (Kymlicka, 2002:



285). The point I am making is that South Africa's democracy would not necessarily function effectively in the absence of an especially responsible citizenry. Each person cannot just pursue her own self-interests without regard for the common good, neither would procedural-institutional mechanisms such as a Constitution, Bill of Rights and multi-party democratic system of government be enough. Citizens also require what Galston (1991: 217) and Macedo (1990: 138) refer to as some level of civic virtue and public-spiritedness – which requires a richer and more subtle understanding of citizenship. In other words, effective policy implementation relies on responsible citizenship. For instance, the state would be unable to provide a basic education if citizens do not act responsibly with respect to their own education, in terms of attending school (both teachers and students), eradicating the vandalism of school buildings, and fostering communal involvement in school activities. Attempts to implement policy would flounder without the cooperation and self-restraint of citizens, that is, the exercise of civic virtue – citizens' willingness to participate, ability to trust, their sense of justice (Putnam in Kymlicka, 2002: 286).

Galston (1991: 221-224) posits that responsible citizenship is constituted by four types of civic virtues: (i) general virtues: courage, law-abidingness and loyalty; (ii) social virtues: independence and open-mindedness; (iii) economic virtues: work ethic, capacity to delay self-gratification, adaptability to economic and technological change; and (iv) political virtues: capacity to discern and respect the rights of others, willingness to demand only what can be paid for, ability to evaluate the performance of those in office, willingness to engage in



public discourse. Many of these virtues are to be required by South African citizens, particularly the ability and willingness to question political authority, and to engage in public discourse about matters of public policy, since they are precisely the goods necessary to enact political deliberation. It is for this reason that Kymlicka (2002: 293) cogently claims that a deliberative model of democracy requires that people act with a profound sense of citizenship: "Democratic citizens must be not only active and participatory, critical of authority, and non-dogmatic, but also committed to seek mutual understanding through deliberation rather than exclusively seeking personal benefit through bargaining and threats. Without citizens who display these virtues, liberal democracy cannot fulfill its promise of justice, and may indeed slowly succumb to undemocratic or illiberal forces".

In essence, there must be a sufficient number of citizens who possess the virtues of democratic citizenship to a sufficient degree, particularly those virtues associated with people's commitment to public participation, respectful dialogue, or critical attention to government, that is, "the need for people to be active citizens who participate in public deliberation" (Kymlicka, 2002: 293). For people to be apathetic and passive, as well as withdrawing into the private sphere of family, career and personal projects, referred to by Habermas (1996b: 78) as the "syndrome of civic privatism", poses a serious challenge to the effective functioning of a deliberative democracy – a situation South Africa can ill-afford to let happen.



The question arises: How can this “syndrome of civic privatism” be overcome in order to live up to the demands of democratic citizenship? One way is to persuade people to accept the activities associated with political participation and public deliberation to be intrinsically rewarding. This Aristotelian view holds that political participation and deliberation are superior to private life involving the family, work, religion and leisure, which most people often find burdensome and sacrificial (Kymlicka, 2002: 297). Most people, certainly in South Africa, do not necessarily accept the intrinsic value of political participation and deliberation as rewarding since they will find their greatest joys and projects in other areas of life, including the family, work, the arts, or religion. If this were to be the case, and one has good reason to believe it is, the least people could do to cultivate citizenship would be to learn the social virtue of “civility” or “decency” since it applies not only to political activity, but primarily to our non-discriminatory actions in everyday life, on the street, in neighbourhood shops, and in diverse institutions and forums of civil society such as stores, corporations, churches, charities, support groups, unions and families. Walzer (in Kymlicka, 2000: 305) posits that the civility that makes democratic politics possible (that is, participatory and deliberative) can only be learned in associational networks of civil society. According to Glendon (1991: 109) it is in voluntary organisations of civil society such as those mentioned above, that human character, competence, and capacity for citizenship are formed for it is here that people internalise the idea of personal responsibility and mutual obligation and learn the voluntary self-restraint which is essential to responsible citizenship. However, Okin (1992: 65) posits that these associational networks of civil society can also teach deference to authority



and intolerance towards other faiths, prejudice against other races, and male dominance over women, which do not make these networks defensible “seedbeds of civic virtue” (Glendon, 1991: 109). It seems clear that no single institution can be relied upon as the exclusive “seedbed of civic virtue”. Therefore, I agree with Kymlicka (2002: 307) who argues that virtues of democratic citizenship can “best” be learned in schools. In his words, “schools must teach children how to engage in the kind of critical reasoning and moral perspective that defines public reasonableness ... (and) promoting these sorts of virtues is one of the fundamental justifications for mandatory education (Kymlicka, 2002: 307). Of course, historically, schools have often been used to promote deference, chauvinism, xenophobia, and other illiberal and undemocratic practices, but this does not detract from the fact that schools can be reorganised, particularly in South Africa, to be effective “seedbeds of civic virtues”. According to Gutman (1987: 30), education for democratic citizenship should inevitably involve equipping children with the intellectual skills necessary for civility. In this regard it is worth referring to a passage of Kymlicka (2002: 308):

(C)ommon (public) schools teach civility not just by telling students the oral value of civility, but also by insisting that students sit beside students of different races and religions, and cooperate with them on school projects or sports teams. Similarly common schools teach public reasonableness not only by telling students that there are plurality of religious views in the world, and that reasonable students disagree on the merits of these views. They also create the social structures whereby students can see the



reasonableness of these disagreements. It is not enough to simply tell students that the majority of the people in the world do not share their religion (or culture and differences) ... To learn public reasonableness, students must come to know and understand people who are reasonable and decent and humane, but who do not share their religion (or culture).

The kind of learning espoused above requires the presence of a classroom with people of varying ethno-cultural and religious backgrounds such as those of South Africans. Certainly in this way, public schools can in a forward-looking way cultivate the civic virtue of democratic citizenship required of citizens to enact a deliberative democracy in South Africa as has been argued for in this dissertation.

In essence, the point about citizenship is that people (citizens) are required to act responsibly. Citizens should not merely get involved in public deliberation and decision making, but they have to try to promote the common good. For Miller (2000: 83) promoting the common good involves securing a set of equal rights for all citizens, to encourage people to respect the rule of law, and to take active steps to defend the rights of others, particularly the least privileged. But then, as I have argued for throughout this dissertation, deliberative democracy seems to be an appropriate discourse to cultivate such a notion of the common good. In short, deliberative democracy can frame a notion of citizenship which can imbue in citizens the virtue of practising a rational, consensus-oriented deliberative discourse in a reasonable and reflexive way.



In this way, citizens could enhance their capacities as practical reasoners who deeply care about building a just, equal and deliberative society.

Of course, my potential critic might correctly claim that my idea of producing a virtuous citizen who can participate in deliberative politics is too idealistic and that the secret of democracy does not lie in the character of the citizens, but, rather, in the cogency and efficacy of the rules of the political system, for instance, as contained in the Constitution. I shall now respond to such a potential criticism.

I agree that the rules of liberal democracy are embedded in political institutions and systems, and the efficient running of such institutions and systems invariably influence the mode of behaviour of citizens. For instance, an efficient justice system would undoubtedly influence the behaviour of citizens who give their allegiance to the system since they are satisfied that the rule of law is maintained. Thus, one finds that a citizen is satisfied with the justice system after a rapist has been convicted and sentenced. However, political institutions and systems do not function independently from the commitment of people who want to safeguard their interests in public life. For example, the Constitution guarantees all citizens the right to safety and security. But this does not mean that all citizens would in fact be secure and safe. If citizens are hijacked, assaulted and murdered they cannot be safe although the Constitution announces that every citizen has a right to a secured life. The point I am making is that the existence of efficient political systems and institutions does not alone guarantee citizens' political and civil



rights. In order for political systems and institutions to work efficiently, we also require citizens who respect the principles of good life as encapsulated in political systems and institutions. Such citizens must to some extent possess qualities whereby persons whose interests may be in conflict with theirs, are equally worthy of respect. Put differently, in order for a liberal democracy to flourish one also requires a virtuous citizen, that is, one whose character is imbued with virtues such as to respect others as equals and to help establish a stable peace in a community whose members might disagree about what is good in life. In this regard I agree with Macedo (1990: 266) when he says "liberal citizens are called upon to respect not only members of their family, tribe, or race, but humanity in general". Hence, the idea of producing a virtuous citizen is not after all an idealistic dream. Macedo (1990: 272) makes the point that any form of liberal democracy, in this instance deliberative democracy, cannot realise its goals of liberty, freedom and justice if citizens do not possess virtues of liberal justice which include the following: broad sympathies, self-critical reflectiveness, a willingness to experiment, to try and to accept new things, self-control and active, autonomous self-development, an appreciation of inherited social ideals, an attachment and even altruistic regard for one's fellow liberal citizen. Lotter also accentuates the connection between virtuous citizens and "just" (efficient and cogent) institutions. In his words, "when citizens (I would add responsible as well) indeed do their part to maintain just institutions, their fellows are motivated to do likewise as they develop trust and ties of friendship toward one another" (Lotter, 2001: 96).



## **6.4 SUMMARY**

This dissertation has argued that a deliberative democracy offers a conceptual framework which can cultivate in others the care to justify their actions and to which they are to be held accountable by and to others for those actions. This implies that people are connected through conversational justice whereby they can willingly justify their political articulations to one another and by means of which they can share in inter-subjective (rational) deliberations with their socio-political contexts.

A deliberative democracy engenders a notion of citizenship which does not encourage one group of people or individuals to dominate unfairly another group of people or other individuals, in this instance, advantaged minorities over disadvantaged majorities and vice versa; a situation which would enhance South Africa's multi-party democracy. In short, a deliberative democracy inspires inter-subjective deliberations in which complete majority rule is replaced by collaborative compromising rule – a political decision making approach that seems far more tenable to ensure multi-party democracy and better political accountability.



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